



CITY COUNCIL MEETING
Tuesday, May 21, 2024 at 7:00 PM
Chambers, in the Charles S. Crandall Center
540 West Hills Circle
Roll Call: Council Members Burbank, Boeke,
Raney, Svenby, Voss, Dotson & Schultz

PLEASE NOTE: At 5:30 p.m. Council will meet in a Study Session in Chambers, Charles S. Center at 540 West Hills Circle. Items of discussion will include Great River Greening's receipt of a grant for trees, tree care and public education; an update from Whitney Johnson at Allina Health; and Emily Thamert, Human Resource Director, with a culture update. If time permits, there will be general updates on the City's various boards and commissions.

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

- 1.1. Council Agenda
- 1.2. Swearing In Ceremony - Police Department
- 1.3. Mayor Kuntz
 - 1.3.1. Board/Commission Member Acknowledgments
 - 1.3.2. Proclamation - National Travel and Tourism Week - May 19-25, 2024
 - 1.3.3. Proclamation - Field of Heroes Days - May 24-27, 2024

2. CONSENT AGENDA ITEMS

- 2.1. Minutes – Council Meeting – May 2, 2024
- 2.2. Minutes - Board/Commission Meetings
 - 2.2.1. Human Rights Commission Meeting - April 9, 2024
 - 2.2.2. EDA Meeting - April 10, 2024
 - 2.2.3. Airport Commission Meeting - April 11, 2024
 - 2.2.4. Human Rights Commission Meeting - May 15, 2024
 - 2.2.5. Planning Commission - May 14, 2024
- 2.3. Department Reports:
 - 2.3.1. Parks, Recreation and Facilities Update
 - 2.3.2. April Dashboard - Police Department
- 2.4. Licenses/Permits
 - 2.4.1. Event Permits
 - 2.4.1.1. Steele County Safety Camp - June 6, 2024
 - 2.4.1.2. Downtown Thursday - June 6, 2024
 - 2.4.1.3. Host Spring Sing - June 9, 2024

- 2.4.1.4. Harry Wenger Marching Band Festival - June 15, 2024
- 2.4.1.5. Field Day - Owatonna Steele County Amateur Radio Club - June 22, 2024
- 2.4.1.6. Just One More Street Dance - July 12, 2024
- 2.4.1.7. Elk's Family Picnic - July 13, 2024
- 2.4.1.8. Reggie's Bean Bag Tournament & Dance - August 10, 2024
- 2.4.1.9. Hunter A. Frank Memorial Event - September 13, 2024
- 2.4.1.10. Amend Permit - Orphanage Museum Fall Celebration - September 21, 2024
- 2.4.2. Exempt Permit - Owatonna Fire Relief Association - Raffle - June 21, 2024
- 2.4.3. Exempt Permit - St Mary's Marian Catholic School - Bingo- August 13-15, 2024
- 2.4.4. Exempt Permit - Sacred Heart Church - Bingo - August 16-18, 2024
- 2.4.5. Temporary Liquor Permit - MSB at Federated Event - September 19, 2024
- 2.4.6. Temporary Liquor Permit - MSB OktoberFest Celebration - September 20 & 21, 2024
- 2.4.7. Renew Ice Cream Vendor Permit - Sunny's Ice Cream, Albert Lea MN
- 2.5. Miscellaneous
 - 2.5.1. Warsinski Chalet Independent Contractor Agreement - Martin Equipment, Inc.
 - 2.5.2. Independent Contractor Agreement - Lacey's at Brooktree
 - 2.5.3. Electric Utility Easement Agreement - Owatonna Public Utilities and Festal Place, LLC
 - 2.5.4. Purchase Data Collector and Integrated Control Agreement - RDO Equipment
 - 2.5.5. Contract - Aaron Guzman Photography

3. ACTION ITEMS

- 3.1. Finance Report
- 3.2. Ordinances
 - 3.2.1. First Reading Proposed Ordinance 24-02: RZ-7, Rezone Cashman Addition No. 3
- 3.3. Resolutions:
 - 3.3.1. Resolution 52-24 Preliminary Plat - Cashman Addition No. 3
- 3.4. Miscellaneous
 - 3.4.1. City Council Committee Structure
 - 3.4.2. Project Scope Development and Communications for Public Safety Center & Community Center
 - 3.4.3. Donation to Rec and Go Program - Gopher Sport
 - 3.4.4. Capital Improvement Project: Social Commons HVAC Rooftop Replacement Bid
 - 3.4.5. Capital Improvement Project: Maintenance Facility Ventilation Upgrade
 - 3.4.6. Capital Improvement Project: Fire Hall Air Handling Unit Replacement
 - 3.4.7. Capital Improvement Project: Innovative Masonry - City Hall Tuckpointing Agreement
 - 3.4.8. Engineering Services Agreement - PFAS Preventative Management Plan - Nero Engineering
 - 3.4.9. Award Seal Coat Project - 26th Street and River Springs Water Park Parking Lot
 - 3.4.10. Accept Proposals and Award Contract - Wastewater Treatment Facility 26th St Lift Station Panel Installation

3.4.11. Accept Proposals and Award Contract - Wastewater Treatment Facility 26th St Lift
Station Panel Materials

4. STAFF REPORTS

- 5. PUBLIC COMMENTS:** Please limit comments to 2 minutes. Please approach the microphone, sign-in and state your name and address for the record after being acknowledged by the Council President. Speakers will be limited to two minutes to deliver their comments. Those speaking are asked to conduct themselves in a respectful manner as they deliver their comments. Audience members are asked to refrain from reacting to comments. The City Council will not respond directly to comments in this venue or take immediate action in response to them.

6. COUNCIL COMMENT AND GENERAL INFORMATION

7. ADJOURN



CITY COUNCIL MEETING

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6. **COUNCIL COMMENT AND GENERAL INFORMATION**

7. **ADJOURN**



CITY OF
OWATONNA

Mayor Kuntz



Mayor's Proclamation

WHEREAS the travel industry is essential to the success of every industry and will continue to be a critical part of Owatonna's economy, development, and workforce., and

WHEREAS travel is an economic powerhouse for every state and destination across the country, with an economic output of \$2.8 trillion, supporting 15 million American jobs, and

WHEREAS travel spending supports vibrant and safe communities in Owatonna and across the United States by generating \$89 billion in state and local tax revenue in 2023 to support essential services, such as education, emergency response, public safety and more. and

WHEREAS travel enables success for all industries—including manufacturing, agriculture, defense, healthcare and more—by driving sales growth, innovation, education, and operations that power our economy, our nation, and our community of Owatonna, MN, and

WHEREAS Steele County sees gross sales of \$77,892,882, state sales tax of \$5,177,952 and employs 1,466 in tourism related activities which includes industries such as accommodations, food and beverage services and locations, arts, entertainment and recreation., and

WHEREAS America's travel industry cannot be globally competitive without maximizing growth in leisure, business, and international inbound travelers; increasing travel to and within the United States drives our economy to a more prosperous future and connects America, and

WHEREAS Small businesses account for more than 60% of leisure and hospitality employment, and

WHEREAS travel is an essential industry, and we must continue to communicate that growing travel leads to economic growth, benefits businesses, fosters mutual understanding, and connects the nation.

Therefore, I, Mayor Thomas Kuntz, do hereby proclaim May 19-25, 2024 as

National Travel and Tourism Week

in Owatonna, Minnesota and urge the citizens of Owatonna to join me in recognizing the essential role this industry plays in Owatonna.

Dated: May 21, 2024

Thomas A. Kuntz, Mayor





Mayor's Proclamation

WHEREAS a Field of Heroes transforms a local park or field into a sea of flags to honor personal heroes, and

WHEREAS many individuals have made a difference in the lives of someone within our community and have become their hero, and

WHEREAS the Moonlighters Exchange Club, the Exchange Club of Steele County, and the Exchange Club of Owatonna want to honor these heroes, and

WHEREAS a temporary memorial display featuring 250 American flags has been established as a Field of Heroes on the grounds of the Steele-Waseca Cooperative in Owatonna, Minnesota, and

WHEREAS these flags will fly over the 2024 Memorial Day Weekend in honor of our heroes, and

WHEREAS each flag will proudly bear the name of someone chosen as a hero. A hero might be a loved one, a veteran, a first responder, or anyone close to their heart,

NOW THEREFORE , I Thomas A Kuntz, Mayor of the Great City of Owatonna,. Minnesota do hereby proclaim Friday, May 24th through Monday, May 27th, 2024 as:

Field of Heroes Days

and I call upon all citizens of the great City of Owatonna to recognize this Honor Field a tribute to our personal heroes.

I have here unto set my hand on the 24th day of May, 2024.

Thomas A. Kuntz, Mayor

Owatonna City Council Minutes
May 7, 2024 - DRAFT COPY

On Tuesday, May 7, 2024, at 7:00 p.m., Council President Schultz called the regular session of the Owatonna City Council to order in the Chambers of the Charles S. Crandall Center. Present were Council Members Voss, Burbank, Boeke, Dotson, Raney and Schultz; Mayor Kuntz; Public Works Director Murphy; Community Development Director Klecker; Finance Director Moen; Library Director Blando; Park & Rec and Facilities Director Tuma, IT System Administrator Sticken; Detective Hunt; City Attorney Walbran; City Administrator Busse and Administrative Coordinator Clawson. Council Member Svenby was not able to attend.

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 Voss seconded the motion, all members present voted aye in approval.

Council President Schultz explained the process for the public hearings planned regarding issuance of bonds. Finance Director Moen introduced Doug Green, Director at Baker Tilly and the City's Advisor for bonds. Green presented an overview of the three financing options the City would be utilizing to fund its 2024 capital projects. These projects include the annual street and utility project, the acquisition of Steele County's half of the law enforcement center, and the mechanical and electrical upgrades at Merrill Hall. Tonight's public hearings are for the City's Five-year Street Reconstruction Plan, Capital Improvement Plan and Property Tax Abatement. These hearings are the first step required in the process for the City to issue bonds at a later date to finance the aforementioned projects.

Public Hearing – Property Tax Abatement

Finance Director Moen advised the maximum amount of taxes proposed to be abated by the city is set at \$6,500,000 for a period of 20 years. The actual amount will be closer to \$5,370,000. This financing will fund the mechanical and electric upgrades and roof replacement necessary at Merrill Hall. At 7:10 p.m., the public hearing was opened. With no comments heard, at 7:11 p.m., Council Member Raney made a motion to close the public hearing, Council Member Boeke seconded the motion, all members present voted aye in approval.

Resolution 42-24: Proposed Tax Abatement

This resolution approves the property tax abatement and identifies the qualified users of the project. Council Member Voss made a motion for approval, Council Member Dotson seconded the motion, all members present voted aye in approval.

Public Hearing - Capital Improvement Plan

Finance Director commented the public hearing is for comments regarding the adoption of a five-year capital improvement plan and the issuance of general obligation capital

improvement plan bonds to finance capital improvements described in the Plan, including but not limited to improvements to and renovation of the law enforcement center in the city, all pursuant to Minnesota Statutes, Section 475.521, as amended. The maximum amount of capital improvements bonds to be issued is \$3,000,000, the actual amount will be closer to \$735,000. At 7:13 p.m., the public hearing opened. With no comments heard, at 7:14 p.m., Council Member Boeke made a motion to close the public hearing, Council Member Burbank seconded the motion, all members present voted aye in approval.

Resolution 43-24: Capital Improvement Plan

This resolution adopts the five-year Capital Improvement Plan and authorizes the issuance of General Obligation Bonds for such. Council Member Burbank made a motion for approval, Council Member Boeke seconded the motion, all members present voted aye in approval.

Public Hearing - Street Reconstruction Plan with Intent to Issue Bonds

At 7:14 pm a Public Hearing opened for comments regarding the adoption of a five-year street reconstruction plan and the issuance of general obligation street reconstruction bonds to finance the reconstruction of certain streets in the city, all pursuant to Minnesota Statutes, Section 475.58, subdivision 3b, as amended. The Street Reconstruction Bonds will be issued in a principal amount not to exceed \$2,000,000, plus any premium received. The actual amount will be closer to \$1,105,000.00. With no comments heard, at 7:15 p.m., Council Member Raney made a motion to close the public hearing, Council Member Voss seconded the motion, and all members present voted aye in approval.

Resolution 44-24: Street Reconstruction Plan

This resolution adopts the street reconstruction plan and authorizes issuance of General Obligation Bonds thereunder. Council Member Burbank made a motion for approval, Council Member Boeke seconded the motion, all members present voted aye in approval.

Board/Commission Member Reappointments & New Member Appointments

Mayor Kuntz recommended for reappointment:

Fire Code Board of Appeals & Fire Civil Service Board - Paul Smith

Housing & Development Authority - Lindsay Schultz

Park & Rec Board - Gina McGuire & Sara Baird

Planning Commission - Mark Wilson & Nicholas Peake

Public Library Board - Karen Malin

Public Utilities Commission - Doug Zirngible

West Hills Commission - Arlan Burmeister & Jan Mittlestadt Tippet

Council Member Voss made a motion for approval, Council Member Raney seconded the motion, all members present voted aye in approval.

Mayor Kuntz recommended four new member appointments:

Human Rights Commission - Julia Seykora, Jennifer Hansen & Jessica Bjore

Airport Commission - Greg Krueger

Council Member Boeke made a motion for approval, Council Member Voss seconded the motion, all members present voted aye in approval. Julia Seykora and Jennifer Hansen were present to receive the Oath of Office from Mayor Kuntz.

Proclamations

Mayor Kuntz commented he made proclamation for the Day of Prayer on May 2, 2024, the Travis Ardolf Day on May 9, 2024, Officer Ardolf was selected as the Police Officer of the Year and Poppy Days will be May 17 & 18, 2024.

Consent Agenda Items

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 – April 16, 2024

Minutes - OPU Commission Meeting - March 25, 2024

Minutes - HRA Board Meeting - March 25, 2024

Minutes - HRA Board Meeting - March 25, 2024

Minutes - Planning Commission Meeting - April 9, 2024

Minutes - Planning Commission Meeting - April 23, 2024

Building Inspections Monthly Report - April 2024

Retail Fireworks License – Target

Retail Fireworks License - Lowe's

Retail Fireworks License - Hy-Vee Tent

Retail Fireworks License – Walmart

Retail Fireworks License - Walmart Tent

Outdoor Public Fireworks Display - Steele County Agricultural Society - July 4, 2024

Exempt Permit - Owatonna Soccer Association Raffle - June 24, 2024

Exempt Permit - Community Pathways of Steele County - July 12, 2024

Exempt Permit - Raffle - Ducks Unlimited Steele County Chapter 5 - Sept 19, 2024

Resolution 45-24: Authorize Contract for Purchases - Fame Awards

GIS Small Government Enterprise License Agreement – ESRI

The City of Owatonna and Owatonna Public Utilities have shared Environmental Systems Research Institute, Inc's (ESRI's) Small Government Enterprise License Agreement (SGEA) for GIS software and services. The SGEA has centralized the city's GIS to one sustainable platform enhancing the City of Owatonna's and OPU's ability to collaborate through software streamlining and information sharing. The SGEA contract allows for unlimited deployment and use of ESRI software in a contained shared cost.

GIS Software Sharing Agreement - Owatonna Public Utilities

The past nine years the City and OPU have been working in a GIS software agreement sharing an Small Government Enterprise License Agreement (SGEA) from Environmental Systems Research Institute, Inc. (ESRI). The City/OPU agreement allows for unlimited app deployment and use of ESRI software in a contained shared cost. If either Party wishes to purchase any ESRI software that is not included in the SGEA, they may do so and will be solely responsible for additional costs.

Stormwater Facility Maintenance Easement Agreement - Yellow Company, LLC

Agreement for their new facility located at 2500 State Avenue NW. The City requires that on-site stormwater management must be maintained by the property owner to meet the requirements of the MS4 permit held by the City.

Council Member Voss recused himself from voting as he is the owner of Fame Awards.

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

Finance Report

Council Vice President Raney recapped payments made for amounts greater than \$20,000 during this period. The total amount of bills presented was \$1,701,693.07.

Council Member Dotson made a motion to approve payment of all bills presented, Council Member Voss seconded the motion, all members present voted aye in approval.

Resolution 46-24: MnDOT Variance 18th Street SE Trail Extension Project

Public Works Director Murphy requested approval of Resolution 46-24 requesting a variance from the standard for State Aid Operation for the 18th Street SE Trail Extension Project, the trail being designed along 18th Street SE from Linn Avenue to Austin Road. Minnesota Rules for State Aid Operation require 60-degree angled parking in areas of average daily traffic exceeding 3,000 to have a distance of 19 feet between the driving lane and parking stalls. The City's current design entails a distance of 8.4' feet between the driving lane and parking stalls. The justifications for the variance request are to promote consistent driver expectations for traffic operation, mitigate environmental impacts of the project by reducing impervious cover, maintaining significant tree canopy cover, avoid Section 4f resource impacts, and maintain parking counts for the adjacent recreational resource. Council Member Raney made a motion to approve Resolution 46-24; Council Member Boeke seconded the motions, all members present voted aye in approval.

Resolution 47-24: Accept Bids and Award Contract - 2024 Street Maintenance

Public Works Director Murphy requested approval of Resolution 47-24 to accept the bids received for the 2024 Street Maintenance Project and award contract. Two bids were received on May 1, 2024, for this project:

Pearson Bros, Inc of Hanover, MN	\$202,067.00
Allied Blacktop Company of Maple Grove, MN	\$342,265.40

The contracted project cost will be \$202,067; however, staff will work with the Contractor to add additional segments to utilize the entire budgeted amount reserved for this work (\$260,000). Murphy commented that Pearson Bros was awarded the 2023 Street Maintenance Project and worked well. Council Member Raney made a motion for approval, Council Member Boeke seconded the motion, all members present voted aye for approval.

Resolution 48-24: Accept Bids and Award Contract - North Cedar Overlay

Public Works Director Murphy requested approval of Resolution 48-24 to accept the bids received for the North Cedar Overlay Project and award contract. One bid was received on May 1, 2024, for this project:

Crane Creek Asphalt Division of Mathy Construction Company of Faribault, MN
\$282,115.30.

The bid was slightly higher than the Engineer's Estimate for this project of \$279,606.90 but recommends proceeding. Council Member Voss asked if a timeline has been prepared for this project. Murphy responded that will be established with the contractor after awarding the contract. Information in the bid advised the project should be done during the summer as this road receives a lot of traffic when school is in session. This project is estimated to take five to six weeks to complete. Council Member Raney made a motion for approval, Council Member Voss seconded the motion, all members present voted aye for approval.

Resolution 49-24: Reject Bids – 2024 CIPPS

Public Works Director Murphy advised two bids were received for the 2024 CIPPS Project.

SAK Construction, LLC of O'Fallon, MO \$346,424.00

Insituform Technologies USA, LLC of Chesterfield, MO \$347,867.36

Both bids were more than 30% higher than the Engineer's Estimate for this project, \$263,425.60. Our bid was sent later than similar projects throughout the state which may be the reason for the higher bids. Murphy recommended rejecting these bids and proposed a larger CIPPS project be proposed next year. Each year, the city's project includes approximately 7,000 feet to be lined. Approximately 72% of the old clay lines within the city have been lined so it will take approximately more than 30 years to complete this project. Council Member Boeke made a motion to approve Resolution 49-24 rejecting the bids received for this project, Council Member Voss seconded the motion, and all members present voted aye in approval.

Resolution 50-24: Authorize Property Purchase – 506 Maple Drive

Community Development Director Klecker commented that the city has pursued flood mitigation efforts through removal of structures in the floodplain for nearly 20 years. In that time, the city removed 32 homes and one business from within the floodplain. Efforts were concentrated on Lemond Road, Walnut Avenue, North Elm, and Mineral Springs Road where 29 of the 32 targeted homes were acquired and removed. More recently, properties on North Oak Avenue were pursued, and two properties acquired, and structures removed.

Staff is now looking at Maple Drive where one house was previously removed and now there is an opportunity to acquire another property. The property at 506 Maple Drive was listed for sale and staff have a signed Purchase Agreement for \$195,000. The city has an existing grant from the DNR to pay all the costs to purchase and remove this house. The basement of this house, a rambler built in 1957, was flooded during the 2010 flood event. Staff is looking into options if the house could be moved to another lot within the city. Council Member Raney commented that the map shows there may be a shared driveway with the adjacent property to the north; Klecker commented that the portion of the driveway for this home will be removed. Council Member Boeke made a motion to approve Resolution 50-24, Council Member Voss seconded the motion, all members present voted aye for approval.

Resolution 51-24: Authorize Property Purchase - Parcel on Mineral Springs Parkway

Community Development Klecker presented Resolution 51-24 regarding purchase of a portion of a parcel along Mineral Springs Parkway. Council President Schultz commented he owns property adjacent to this property and recused himself. Vice President Raney took over the meeting. Council Member Dotson commented he will also recuse from vote, as he is related to the current property owners, Christopher and Julie Fiske. Klecker commented that the City recently purchased property on the west side of Mineral Springs Parkway and removed an old, dilapidated house to clear a small area for overflow parking for Mineral Springs Park. Current property owners contacted staff asking if the city was interested in buying their lot. Staff don't believe the entire lot would benefit the park for the proposed cost; but believe the southern portion of that lot could expand the overflow parking area or could make an area large enough for other park possibilities. The remainder of the lot is large enough for the current owners as a buildable lot. The price for the southern portion of the lot is \$28,850, which is the same price per square foot of the lot purchased in 2020. Council Member Boeke made a motion to approve Resolution 51-24 authorizing this property purchase, Council Member Burbank seconded the motion. The four members voting all voted aye for approval.

Council President returned to his seat to resume direction over the meeting.

On Sale Wine and Beer Licenses - Oscar Sanchez dba Owatonna Taqueria Jalisco LLC - 206 W Rose Street

City Administrator Busse requested approval of applications received for On-Sale Beer and Wine Licenses from Oscar Sanchez for his new restaurant, Taqueria Jalisco, LLC. Renovations have been completed at 206 W Rose Street and the Certificate of Occupancy has been issued to allow them to open. A background verification was completed with no objection from Chief Mundale to issuance of these licenses for this applicant. The required Certificate of Insurance and payment of fees have been received. Council Member Dotson made a motion for approval, Council Member Burbank seconded the motion, all members present voted aye for approval.

Accept Proposals and Award Contract - Overlay Prep Project

Public Works Director Murphy requested approval of the proposals received and the award of the contract for the Overlay Prep Project. Two proposals were received on May 1, 2024, for this project:

Steve James Excavating of Owatonna MN	\$ 82,000.00
Ims Contracting, LLC of Dodge Center MN	\$112,980.54

The lowest bid is 7% higher than the Engineer's Estimate of \$76,614.00, will be paid from the current Operating Budget. Council Member Boeke made a motion for approval, Council Member Burbank seconded the motion, all members present voted aye for approval.

Engineering Services Agreement - WWTF Biogas Tax Credit - Nero Engineering

Public Works Director Murphy requested approval of an Engineering Services Agreement with Nero Engineering for a Biogas Tax Credit Proposal. In 2022, the Inflation Reduction Act was signed into law which included a broad range of incentives to encourage the transition to renewable energy sources. The city's current WWTF Expansion Project includes improvement elements to the production and utilization of biogas, which the city has been using as a renewable energy source since 1988. Owatonna may qualify for investment tax credits (ITC) on portions of the WWTF Expansion Project that involve the production and utilization of this renewable energy source.

As currently defined, qualified biogas property projects are eligible for up to 30% of the capital improvement of eligible components and possibly up to 50%. Nero, with the help of Baker Tilly, have roughly estimated \$8.2 million worth of components to be eligible and at 30% the ITC return would be roughly \$2.5 million. The process will determine the total return, but Nero estimates the absolute minimum return to \$1.2 million. Council Member Raney made a motion for approval, Council Member Voss seconded the motion, all members voted aye in approval.

Wastewater Treatment Facility Tax Credit Agreement – Baker Tilly

Public Works Director Murphy requested approval of the agreement with Baker Tilly for IRA Renewal Tax Credit Consulting Services. Nero Engineering will assist with coordination with the city and Baker Tilly to identify known processes that utilize biogas, assess equipment and process eligibility, tax credit application process, and PFA loan coordination. Murphy commented that nothing is guaranteed but is recommending this as it may be very beneficial. Council Member Dotson made a motion for approval, Council Member Voss seconded the motion, all members present voted aye in approval.

Land Development Agreement - Yellow Company, LLC

Community Development Director Klecker requested approval of a Land Development Agreement with Yellow Company, LLC. for the Marthaler Addition project. The proposed agreement lays out the roles and responsibilities of the developer as well as the city, including any expectations that need to be met. The Developer is responsible for the construction of the public improvements. A 1% fee is being charged by the city to

compensate for the oversight of the public improvements. This project includes several fire hydrants installed along the street to this new site. Council Member Voss made a motion for approval, Council Member Burbank seconded the motion, all members present voted aye in approval.

STAFF COMMENTS

Library Director Blando commented that tonight's City Council Meeting is the first meeting launched live on the City's PEG Channel which can be accessed via the city's website. There will also be an On-Demand component to allow view of the meeting at later times. Blando invited everyone to join him on Monday, May 20th, at the **Steele County History Center** at 5:00 p.m. for a book signing, and Author Program at 6:00 pm. Patty Welterling and Joy Baker, co-authors of *Dear Jacob: A Mother's Journey of Hope* will be present. This spring, staff launched a podcast, *WhoDewey Think We Are*, and the second podcast was just released. The podcast equipment was part of the grant received from T-Mobile and will be available for public use later this month. People will be able to take equipment to the small room on the 3rd Floor at the Library to prepare a podcast. There are a lot of events happening at the library, staff is preparing for Christmas in July and the Summer Reading Program.

Finance Director Moen commented that she has been busy preparing for the start of the debt process during tonight's public hearings. Today, during the Department Director's Meeting, she and City Administrator Busse reviewed the initial steps for preparation of the 2025 Budget.

Community Development Director Klecker commented that the warm Spring weather allowed many construction projects to begin sooner than originally expected. The number of construction permits issued this year is 30% more than last year at this time, there have been three permits issued for single-family homes. The year-to-date permit valuation is currently \$49 million which appears to be on track to meet our annual goal of \$100,000 million.

Public Works Director Murphy commented that the Contractor Development and Information Session held last week was well received, Information about the city's new permitting system and department updates were shared. Surveys were sent to attendees in response to improve future meetings as this will continue to build better relationships with our contractors. The Federal Government has accepted the needs report for the East Side Corridor Project. Transportation results and evaluation criteria were included which will allow Steele County consultants to start looking at alternative routes and select a location for the project. These are the first two big steps for this project which will hopefully be completed by the end of the year. He congratulated Greg Ilkka, Steele County Engineer who just announced he plans to retire, he will become part-time in June until a new County Engineer is named.

PUBLIC COMMENTS

Gayle Jorgenson, 249 E Main Street, commented that the central downtown areas were not represented as small park areas on the City's Comprehensive Plan which she believed should be. Also, there are many historic homes which should receive some attention and historic preservation in the city.

Tyrel Alastair Hunter, 2595 Mossy Creek Drive commented the City's Comprehensive Plan shows a future public school on 29th Avenue which may be proposed as a major highway. He asked if many will want their child to attend a school next to a highway?

Matt Sennott: 2519 Stony Creek Dr. commented he has been contacted with questions about use of 29th Avenue in documents proposing the East Side Corridor Project. Currently, 29th Avenue does not exist and is shown as an alternative route but questioning why 29th Avenue is used and not 34th Avenue.

Gary Jones, 995 Ridge Road commented he prepared a list of vegetation that deer do not like. He shared this list with city staff, a list of 85 plants which can be planted to deter deer. When he moved to his current home, he lost several plants which he has replaced with vegetation on this list. Many of these plants are herbs which give off a slight order/smell that deer do not like.

COUNCIL & STAFF COMMENTS:

Council Member Boeke asked about the City's new credit rating. Finance Director Moen commented that the city now has a AA1 credit rating. Only two greater Minnesota cities have received this high credit rating.

Council Member Voss thanked Mayor Kuntz, Pastor Brent Carlson, Revered Nate Palmer and other clergy for hosting the National Day of Prayer Service on May 2nd. He also commented that the repair on N Cedar will be a big project and publicity should be sent to let the public know of the plans.

Council President Schultz commented he joined the council in 2011 anticipating he would be on the Council for no more than ten years. In 2020, when he met his 10-year plan, he received a lot of encouragement to run for re-election. 2020 was the year of high covid concerns so he ran for office with the intention that this would be his last term. He confirmed he has decided not to run for re-election this fall and wants to let everyone know of his decision so others can consider running for Council Member representing the Second Ward. He commented that anyone with questions about running for office can contact him if they have questions. Council Members and those present gave President Schultz a round of applause in appreciation for the service he has provided during his tenure on the Council.

At 8:35 p.m., Council Member Raney made a motion to adjourn, Council Member Dotson seconded the motion, and the meeting ended.

Respectfully submitted,
Jeanette Clawson, Administrative Coordinator



CITY OF
OWATONNA

Board Commisison Minutes

Owatonna Human Rights Commission Minutes

The Owatonna Human Rights Commission (OHRC) met on Tuesday, April 9, 2024, in the Meeting Room of the Charles S. Crandall Center. Chairman Commissioner Cords called the meeting to order at 5:30 p.m. Commissioner Vanoosbree took roll call with Commissioners Cords, Esquivel, Leon, Emanuelson, Gunderson and Vanoosbree, City Administrator Busse and Administrative Coordinator Clawson present. Commissioner Ismael was unable to attend.

Following the Pledge of Allegiance, Commissioner Cords welcomed everyone to the meeting. Commissioner Vanoosbree made a motion to approve the agenda as prepared, Commissioner Leon seconded the motion, all members present voted aye for approval. After reviewing the Minutes of the March 12th Meeting, Commissioner Gunderson made a motion for approval, Commissioner Vanoosbree seconded the motion, all members present voted aye for approval.

COMMISSIONER COMMENTS

Commissioner Cords reminded everyone of the OHRC booth planned at the Project Community Connect Resource Expo on April 25th at Trinity Lutheran Church. Commissioners Cord, Mustafe and Vanoosbree plan to attend this event to distribute OHRC flyers and brochures. Commissioner Vanoosbree commented she will bring the poster board to this event.

Commissioner Vanoosbree commented that the Alliance for Greater Equity (AGE) will host a Cinco DeMayo event in Central Park on Saturday, May 4th. There will be food trucks, games and music offered, and they are looking for volunteers to help. The event is planned from 11 a.m. to 9 p.m. Clawson commented this will be a busy day in Owatonna, other activities include Corky's Earlybird Softball Tournament, the Farmer's Market and From the Heart & Soul 5k and fun run.

ITEMS of DISCUSSION

OHRC ANNUAL REPORT 2023-2024 Welcome Week

The 2023 OHRC Annual Report prepared by Commissioner Cords was presented. Commissioners Cords and Gunderson will provide an update on OHRC activities during the Study Session on April 16th. The annual report will serve as an outline for their presentation. This will offer an opportunity to promote the Human Library offered last fall during Welcome Week and the MLK Jr. Day event in January. Commissioner Vanoosbree commented that to spread out OHRC activities during the year, the Human Library could be offered as a stand-alone event. The book (subject matter) participation was good and community awareness could expand if this was a separate event.

Commissioner Gunderson asked current OHRC members Emanuelson, Vanoosbree and Cords to be present during the May 21st City Council Meeting. Mayor Kuntz will acknowledge former board/commission members for their years of service during this meeting. Over the last several years, OHRC has changed from being a reactive to a proactive commission with service from these commissioner members.

2024 Welcome Week

The sub-committee will meet prior to the next OHRC meeting to expand plans for the 2024 Welcome Week. Current consideration to host a soccer game at Grace Baptist on Saturday, August 10th, Commissioner Gunderson will verify field availability with the church. Commissioner Vanoosbree commented that offering food will encourage participation and suggested considering contacting a food truck.

ADJOURNMENT

At 6:20 p.m., Commissioner Gunderson made a motion to adjourn, Commissioner Emanuelson seconded the motion, and the meeting was adjourned. The next meeting will be held on Tuesday, May 14, 2024, at 5:30 p.m. in the Meeting Room of the Charles S. Crandall Center.

Respectfully submitted,

Jeanette Clawson, Administrative Coordinator

**EDA
Minutes
April 10, 2024**

The Owatonna Economic Development Authority met in regular session at 4:04 PM in the Charles S. Crandall Center – Meeting Room at City Hall Building with Vice President Voss presiding. Commissioners present: Dan Boeke, Andrew Cowell, Brenda DeVinny, Pat McDermott, and Doug Voss. Commissioners absent: Corey Mensink and Kevin Raney. Also present were Troy Klecker, Brad Meier, Lisa Cochran, Glenda Smith, and Kristen Kopp.

Approval of Minutes. Commissioner Boeke moved approval of the minutes of the March 13, 2024 meeting with second by Commissioner McDermott. All Commissioners voting Aye, the motion passed.

Treasurer's Report. Troy Klecker presented the revenue and expense reports for March. Checks are out for the first half contract with the Chamber and OABDC.

Loan Report. Troy Klecker presented the loan report for March. He said that Selective Looks, who was not current due to an oversight at the last meeting, is now caught up and paid through March.

OACCT / OPED Report. OACCT Director Brad Meier presented the OACCT Report for March. The next Made in Owatonna Day, Ag Day, is next week. The Chamber was fortunate to get a grant to pay for some work experiences for students. We can pay up to \$15/hour for limited hours for work experience. We've been pushing that out and he welcomed the Commissioners to share with others. Signing Day will be the end of May. SteeleCoWorks Coordinator Missy Koch took a new job at OHS as their second Career Navigator. He said they're looking at changing the way the role works, working together with Brian and Missy. He said it's very positive. Meier congratulated the City of Owatonna for being on the list as a nominee for Real Estate Journal awards. The next Chamber Growth Breakfast will feature the MNSCU Chancellor and Riverland President. The Chamber has been working on their new building and this summer they will be doing some exterior work. They would technically qualify for the forgivable loan, but has reservations because of their contract with the City. He asked the Commissioners what they thought. Boeke said his impression is to use the funds that are available. Cowell asked if nonprofits were excluded from applying. Voss said it's within the boundaries of downtown. Meier said they didn't apply for interior money when they did interior alterations. The Commissioners agreed that it was fine. Boeke asked about the OPED Annual Report. Meier said he can send out a copy of it.

MainStreet Report. MainStreet Director Lisa Cochran presented the quarterly MainStreet Report. She said her quarterly stats to the state aren't due until next week, so there is a different style of update in the packet. It gives you an overall idea of what's been happening first quarter. She's met with three businesses about forgivable loans. She's followed up with the dress shop and Family First Insurance. She hasn't heard back, but hopefully will. She completed the accreditation application and they do get to retain their accreditation. They implemented a new event with the Winter Walk: Beverages, Bites and Bar-ingo. They will plan on doing that again

with Bold and Cold. They went to the Capitol to advocate for additional funding for MainStreet Programs in 2026 and 2027. A couple of businesses closed: Bellebrook Boutique and Elwood Cleaners. She is trying to set up a meeting with that building owner. HotWorx opened, as well as The Clubhouse and Daryl Bauer Home Resource Group. Central Park Coffee has new owners and Flemke Agency moved to a new location.

Tourism Report. Tourism Director Glenda Smith presented the quarterly Tourism Report. She has been meeting with lodging properties to see how things are going and how we can help. The properties are a little nervous with Home 2 Suites opening. We expect to see occupancy rates down. Home 2 Suites is planning to open the end of May and are starting to take reservations for June. Double Tree is in the works and they have started to enter some contracts for April 2025. Visitor Guides are complete and have started to be delivered around town. They structured their marketing meetings differently—they did a big kickoff in January and are focusing on a different topic each month. Corky's Earlybird is their big spring event. National Travel and Tourism Week is May 19-25. Foremost will be doing a tourism focused trivia on May 22. She highlighted meetings and group tours coming up. They're working with the associations and trying to engage baseball, basketball, la crosse, gymnastics associations to see if they want to host something in our community. A lot of tournaments have scaled back to one night. Voss asked about the 24-hour welcome center. Smith said they are working on becoming a welcome center. It's not officially opened or unlocked yet, but it will be.

Airport Report. Klecker said that Accelerated Aviation will be hiring three more instructors, for a total of 16 instructors, and adding three planes. There are a number of projects going on at the airport this year. They're also working on a business plan for the airport now that they've met previous goals, including becoming financially self-sufficient.

EDA Projects. Community Development Director Troy Klecker presented the EDA Projects for March. He gave an update on former Bubba's. They know that Oscar isn't moving forward with the wine lounge. Klecker had a conversation with him today. There is the \$8,500 payback clause for the TIF consulting fees and also unpaid taxes. In discussions with him today, he wants to move forward with signing the property over to the City. He can't make the payments right away, but is willing to do a repayment agreement. If everyone is okay with that, Klecker will proceed with getting a repayment agreement drafted and work with Mark Walbran to get that property turned back over to us. Boeke asked how soon the property will come back into our hands. Klecker said he's hoping 30 days. He thinks it's a good compromise, as we were looking to get the building back and set up a repayment plan. The monthly payments will go to EDA Land Account. Cowell said there should be some interest on it to incent him to get it paid. He wondered if we'd be setting a precedent. Klecker said that this is so unusual that it would be hard to set a precedent. Cowell asked if we had a new buyer of the property and they wanted to do something similar or different, would the TIF district be transferred to them, or would the new owner would pay for the difference? Klecker said, in reality, even though the TIF district is established, they will still need to do another TIF plan. We'll still have a consultant and will need to amend the TIF plan. Cowell said that Nicolai TIF was able to be transferred. Klecker said that that was a similar situation. There was a repayment clause and they did write a check for that amount. They had their taxes paid. The new developer came in and we did have to amend the TIF plan and still incurred some consulting fees. That would be as similar a situation as we've

had. There will be some consulting expenses on the new one. The Commissioners agreed that they were good with that. Klecker said he will see if we can get some interest. Cowell asked what the rate is the County uses for past due taxes. Klecker said that interest will be included in his payments.

There was some discussion of Scooter's Coffee and the adjacent tower property. Klecker said, to his knowledge, Scooter's was not able to purchase the property. He reached out to the tower company to let them know that they will still be responsible for maintenance and property taxes for the property.

Old Business:

Downtown Second Floor Commercial Space Contest. Cochran said she and Klecker met and went through some criteria. She handed some copies out. Klecker said it's up to the Commissioners how quickly they want to roll this out. The sooner we get it out and people start thinking about it, the better. He said he and Cochran were looking at it from a really broad sense and did not specify too much. They laid out some objectives, but are leaving it pretty wide open. They're proposing \$20,000. Boeke said this would be big for downtown. Cochran said that Rethos will have a grant that businesses can apply for at the end of the month. Meier said the application comes from MainStreet first. Cochran said she is the grantor to the grantee. She heard about this last year in Boston. Not every building will qualify because it has to be in the historic district. Klecker said that it might be best to keep the EDA contest separate. Cochran said Rethos is exciting. Voss said he doesn't feel like this is enough information to vote on. Cochran said that this isn't the form. Boeke said he likes it. Klecker said if the Commissioners want another month to review it and vote next month, that's fine, too. He said they will go with what they have here and if the Commissioners have any suggestions, get their feedback to Cochran in the next two weeks. Cowell said he doesn't care if it's for an existing business as long as it's driving people downtown. Voss said he likes that we reserve the right to say yes or no.

New Business:

151 Bridge Street West. Klecker said that Darrin Stadheim is working on a lot of projects right now and this isn't one he feels he can make work. There is some work to do on the lower level to get a tenant in there. He is anxious to sell. He's talked to the neighbor to the west and there is some interest there. He is offering it to us for \$325,000 and will reimburse us for the environmental study that we did. He does want the City to own it. It will increase the values downtown. When the Governor was here, he brought his entourage. The DEED Commissioner is good friends with Tim Penny. Klecker said he gave them a tour of the city and they pointed that property out. It stands out like a sore thumb. If anything's going to happen, we have to take the lead. We have stuck out our neck on a number of projects downtown: the Arnold House, the Smersh House, the old Theater. He said that they will all eventually be occupied and look good. The good part about this one is that it's bringing in revenue and we'll have money to put back into it. We can make some improvements to it. He feels much better about this one. He laid out what he thinks we can do right away, such as constructing a dumpster screen, air conditioning in the apartments so the window units can come out, new windows on the restaurant side, and a

new sprinkler system. We could do tuckpointing and painting. There is a tank under Oak Avenue that will have to be removed. When the City owns it, we have access to some grant dollars through DEED. If we have a project, it's easier to get those dollars. Eventually we would like to enclose that overhang and make it part of the building. We'll still be looking for a tenant all the while. People will visually see what the City is doing to the building. He thinks it's a good opportunity for us to do something. It's the one building he gets the most complaints about. He would be asking for EDA approval to move forward with purchasing it for \$325,000. It would still need to get City Council approval. Cowell abstained from the conversation and the motion as he has a business relationship with the property owner. Boeke said if government doesn't do this, who will? He would vote yes on this. McDermott says it seems like a building that the next person that owns it will sink a lot of money into it; it might be hard to find a buyer. Klecker said it cashflows as it is. With improvements, it will eliminate some obstacles. Worst case scenario, we own it for three to five years and sell it as is, it will at least look better than it would have before. Boeke said it will be safer with the sprinkler system. Klecker said they can figure out what makes sense to do. Voss asked if we're eligible for money to get rid of the gas tank. Klecker said that DEED has some funds. With Main Street being redone, he'd like to see the tank taken care of by the County. He'd also like to get the water service in for the sprinkler system. We'd be very strategic about what the improvements are and when they happen. Voss asked if there were other DEED grants we'd qualify for. Klecker said he's not aware of anything else. Voss said the fear is that we get stuck with another building. This does cashflow, so it's a better scenario. Boeke said it will be a better-looking building than it is now. Klecker said we can sell it, but it will look better. Voss said just with the list, it would look 90% better. They still have the Council vote. A motion was made by Boeke and seconded by DeVinny to recommend approval of the purchase of 151 Bridge Street West for \$325,000. With Cowell abstaining, all Commissioners voting Aye, the motion passed.

Stendel Parking Lot Lease. Klecker said that we've rented this from Brian Stendel every year for 15 years. Every year Council asks if we could buy the lot. Stendel is getting to the point where he might be selling the building and would sell this portion of the parking lot to the City. Klecker suggested a six-month lease through October, and at that time, Stendel should know what is happening. If he decides to sell it, the City could purchase it at that time. If it is purchased, it would not be purchased with EDA dollars. It is a vital parking lot.

Online Low Doc Application. Lisa said that this is now online like the forgivable loan application.

Forgivable Loan – 210 Main Street West (Vanity LLC / Miranda) Klecker said that this is for the building right behind the Chamber. The EDA approved an exterior loan at the last meeting. The applicant found out that they need an air exchange unit which is a building code requirement for a salon. They did not anticipate this when they started. Our forgivable loan criteria is things that will stay with the building and make things meet code. Technically she is doing this to meet code, but it is specific to a hair salon. If she were to move out, the next owner wouldn't necessarily need that. The bathroom is not handicap accessible, and if she doesn't touch it, it is not required to become handicap accessible. She asked the question and Klecker said they wanted to run it by the EDA. Voss said he likes the way it's set up so it can accomplish things that are painful to do. A venting system for a hair salon is part of the cost of having a hair salon.

Boeke said he could go either way. DeVinny and McDermott agreed with Voss. Cowell said he could go either way, but he agrees that it's specifically intended for her business and not improving accessibility. It was agreed that the ventilation improvements would not meet the requirements of the forgivable loan program. Lisa said the Low Doc Loan would be available to her.

Forgivable Loan – 306 Cedar Avenue North. Klecker said that InstyPrints used to own the entire space, but they have reduced their space and there is another space available. They are interested in doing a wine bar. They have an application in for both interior and exterior. The building is owned by the real estate fund. Someone from the fund would sign the guarantee. They're looking at \$10,000 interior and \$10,000 exterior. They are doing a handicap accessible building. They wouldn't change the exterior brick work, but they are looking to take the arch window and put in a garage door behind it, which would be an access point. Lisa said she's already seen what they're thinking. Cowell asked if the real estate fund can provide a corporate guarantee instead of an individual guarantee. Klecker said that's probably what they were talking about. They're okay with the repayment and will sign a corporate guarantee. Cowell said he's comfortable with that. A motion was made by Cowell and seconded by McDermott to approve a \$10,000 exterior and \$10,000 interior forgivable loan for 306 Cedar Avenue North. All Commissioners voting Aye, the motion passed.

Klecker said he thinks they decided not to go with the low doc application.

Schedule Next Meeting. The next EDA meeting is scheduled for **May 15, 2024** at 4:00 p.m. in Charles S. Crandall Center – Meeting Room at City Hall.

Adjournment. There being no further business, a motion was made by Commissioner Boeke and seconded by Commissioner DeVinny to adjourn the meeting at 5:32 pm. All Commissioners voting Aye, the motion passed.

Airport Commission Meeting Minutes
April 11, 2024 – Owatonna Degner Regional Airport
“DRAFT”

1. Call to Order

Chair Thurnau called the meeting of the Airport Commission to order at 5:00 PM.

2. Roll Call

Attending

Madeleine Haberman	Commissioner
Anthony Louris	Vice Chair
Paula Snitker	Commissioner
Daren Tarpenning	Commissioner
Matt Thurnau	Chair
Dave Beaver	Airport Manager

Visitors

Melissa Underwood	SEH, Inc.
Corey Madrid	Owatonna Squadron Civil Air Patrol (CAP)
Jim Stanoch	Owatonna Squadron Civil Air Patrol (CAP)
Kevin Oyloe	Apex Industries

3. Approval of Agenda

Commissioner Tarpenning made a motion to approve the agenda and Commissioner Haberman seconded the motion. The motion was approved.

4. Minutes

Commissioner Louris made a motion to approve the minutes from the March 14, 2024, Airport Commission meeting and Commissioner Haberman seconded the motion. The motion was approved.

5. Action Items

Chair Reports

There were no Chair Reports.

Staff Reports

Airport Manager Beaver reported on airport activities and presented the combined aviation fuel volumes dispensed year to date. There was a brief discussion on activity, flight training and business arrivals. Mr. Beaver reported that work is being completed on 2024 grant applications and described a number of anticipated improvements.

Mr. Beaver provided an update on the upcoming Air Race Classic (ARC) event scheduled for June 18th-21st. Mr. Beaver reported that staff is working with the Owatonna Area

Chamber of Commerce on promoting the event to include hotel discounts for participants. Mr. Beaver explained that the program submittals have been completed and work is being coordinated with the stop chairperson and volunteers. There was a discussion regarding the event and how local airport users and Commission members could get involved. Mr. Beaver explained that there are already a number of volunteers and that a sign-up sheet with available time slots and roles would be available by the May meeting.

Owatonna Squadron Civil Air Patrol (CAP) Update

Chair Thurnau introduced Corey Madrid with the CAP for an update. Mr. Madrid explained that he has been promoted to Commander of the local CAP squadron and introduced his team. Mr. Madrid provided an update on CAP activities and plans for an open house. They have set the date for the annual airport CAP French toast breakfast for August 25th. Commissioner Tarpenning reminded the group to make sure they submit Event Permit Application for planned events at the airport.

Regarding CAP membership, Mr. Madrid reported that the local squadron now has 16 cadet members and 14 senior members. The local CAP meets at the airport every Tuesday evening and focuses on cadet programs, education, and emergency response. Mr. Madrid explained that goals for the local squadron include acquiring an airplane, building a hangar, and working with and helping the airport with various needs and events. Chair Thurnau thanked the CAP for attending and providing an update.

Introduction of Airport Consultant, Short Elliot Hendrickson (SEH)

Airport Manager Beaver introduced Melissa Underwood with Short Elliot Hendrickson (SEH) as the primary contact for airport engineering and consulting services. Mr. Beaver explained that SEH was selected through a competitive selection process. Melissa Underwood gave a brief background on herself and SEH and provided a handout showing the company's approach to project needs at the Owatonna airport. There was a brief discussion and welcome.

CIP Review

Melissa Underwood provided a handout showing suggested prioritization of near-term projects shown on the airport Capital Improvement Program (CIP). The projects depicted included suggestions for phasing pavement maintenance projects. There was a brief discussion regarding CIP projects.

Security Fence Project Update

Airport Manager Beaver gave an update on the security fence project and reported that work is set to begin again in the next week primarily on the north side of the airport driveway. After completion of the layout and staking for this project a number of underground utilities were found to be located in close proximity to the desired layout of the fence line. Mr. Beaver explained that the Contractor recommends hydrovac excavating rather than using an auger in these areas.

Mr. Beaver presented Change Order No. 2 and explained that the proposed change order provides for the cost of the additional hydrovac work and adds two weeks to the date of completion for coordination of subcontractors and the hydrovac operation. This also allows additional time for the ground to dry to avoid damaging airport grounds with equipment.

Mr. Beaver added that additional engineering services are included to assist with survey and deed research outside the original scope of work of the airport engineering consultant. This is to investigate any recorded deeds to ensure no boundary restrictions, agency restrictions, easements, or other issues before final staking of fence line.

Mr. Beaver explained that the FAA has reviewed and approved the change order and that additional costs are eligible for grant funding under the existing project grant. After discussion, Commissioner Louris made a motion to recommend approval of Change Order No. 2 as presented and Commissioner Tarpenning seconded the motion. The motion was approved.

T-38 Aircraft Display Maintenance Program

Chair Thurnau introduced Kevin Oyloe with Apex to update the Commission on suggested continued phases of the T-38 maintenance program. Mr. Oyloe gave a brief description of the initial phases of work completed in recent years including the cleaning and painting of the support derricks and bird mitigation. Mr. Oyloe recommended that the next phase should include the re-painting of the display aircraft. There was a discussion regarding this process and determining the cost. Mr. Oyloe will provide phased cost estimates for review for upcoming meetings.

For other items, there was a discussion regarding the Airport Commission meeting time including adjusting the meeting time to a morning meeting time. This will be discussed at the next meeting to allow for further input and discussion.

6. Adjournment

The Airport Commission meeting was adjourned at 6:20 PM.

Owatonna Human Rights Commission Minutes – DRAFT Copy

The Owatonna Human Rights Commission (OHRC) met on Tuesday, May 14, 2024, in the Meeting Room of the Charles S. Crandall Center. Vice-Chair Jim Gunderson called the meeting to order at 5:30 p.m. with Commissioners Jim Gunderson, Jessica Bjore, Edgar Esquivel, Brandy Leon, Jennifer Hansen and Julia Seykora, City Administrator Busse and Administrative Coordinator Clawson present. Commissioner Mustafe Ismael was unable to attend.

Following the Pledge of Allegiance, Commissioner Gunderson welcomed everyone to the meeting and advised that during the May 7, 2024, City Council Meeting, Council approved Mayor Kuntz's recommendation for three new members to the Human Rights Commission: Jessica Bjore, Jennifer Hansen, and Julia Seykora. Commissioners Hansen and Seykora were present at the City Council Meeting and received their Oath of Office. City Administrator Busse administered the Oath of Office to Commissioner Bjore. Following brief introductions, new members were given OHRC information binders. Commissioner Leon requested a date correction on the meeting agenda and then made a motion for approval, Commissioner Esquivel seconded the motion, all members present voted aye for approval. After reviewing the Minutes of the April 9th OHRC Meeting, Commissioner Gunderson made a motion for approval, Commissioner Leon seconded the motion, and all members present voted aye for approval.

ITEMS of DISCUSSION

Annual Election of Officers

Commissioner Gunderson gave a brief explanation of duties the commission's officers are each responsible for. Commissioner Leon nominated Commissioner Gunderson as the Chairperson, Commissioner Esquivel as Vice-Chair and Commissioner Hansen as Secretary. Commissioners Gunderson and Hansen accepted the nomination proposed but Commissioner Esquivel declined because of employment time constraints. After discussion, Commissioner Seykora nominated Commissioner Gunderson as Chair, Commissioners Leon and Bjore as Co-Vice Chair, and Commissioner Hansen as Secretary. All nominations were accepted, no other nominations were heard, and all members present voted aye for approval.

2024 Welcome Week

Commissioner Gunderson commented following a sub-committee meeting for planning the 2024 Welcome Week activities, they propose the activities happen within a 2–3-week period beginning at the Downtown Thursday Event on September 5th. Commissioner Leon proposed activities would be an activity during the Downtown Thursday event, a soccer game on Saturday, September 7th, and a round table event during the second or third week of September. Commissioner Gunderson commented the soccer field at Grace Baptist Church has been reserved, Commissioner Hansen commented that more details for soccer games are needed. Current plans are uncertain if the number of games offered and if participation would be by adults' or kids' teams. Also, we should have an estimate of the number of participants prior to any discussion on food options. Commissioner Gunderson commented that the 2023 soccer game wasn't well promoted, and no one showed up, he will meet with Commissioners Esquivel and Ismael prior to the June OHRC Meeting to discuss tournament details.

Commissioner Hansen commented that the OHRC Human Library event offered last fall was a good opportunity to interact with someone of a different culture, but that event was not well attended. She believes many were/are uncomfortable holding an in-person discussion with someone from a different culture and proposed a Human Library be offered during the Downtown Thursday when many attend and participate. Subject Books could be present for an in-person discussion or posters with their picture, information and a QR Code which connects to a short video prepared about them. Commissioner Bjore suggested participants receive points for each connection made and Commissioner Seykora suggested an Activity Passport track participation and the participant with the most points receive an award prize. Commissioner Gunderson commented Round Table Event should also be held, the event allows local businesses and employers an opportunity to hold an open discussion about communication barriers they have encountered. Last year, valuable information was shared, and many requested a similar event be offered again. Commissioners Leon, Bjore, Hansen and Seykora will meet prior to the June OHRC Meeting to discuss plans for the 2024 Welcome Week Activities. City Administrator Busse explained a sub-committee meeting must comply with the Open Meeting Laws, if more than three members attend, meeting information must be included on the City's Weekly Meeting Schedule at least three days prior to the meeting date. Commissioner Gunderson suggested contacting previous OHRC Commissioner Emanuelson for list of participants at the 2023 Round Table.

2025 Martin Luther King Jr. Day Event

The commissioners agreed changing the 2024 MLK Jr. Day event from a breakfast to a noon event was a good decision. Commissioner Gunderson commented that the taco bar by Plaza Morena was well received, and he will contact Jose for a quote for the 2025 MLK Jr Day event on January 20th. Many positive comments were received about the presentation by Semma Pothini and multiple requests for her to speak at future events. Commissioner Seykora will contact her; Commissioner Hansen suggested requesting a list of presentation topics for commissioner selection. This year, the Steele County History Center worked well, but a larger space might be considered for 2025. Suggested sites included the Elk's, the Eagles, the Middle School, the High School, or Trinity Church. Commissioner Hansen will contact potential venue locations for discussion during the June OHRC Meeting.

COMMISSIONER COMMENTS

Commissioner Hansen commented the theme for the 2024 Pride in the Park Event, hosted by Rainbowatonna is Small Town/Big Rainbows. The event is planned for Saturday, July 13th at Manthey Park. Recent comments on social media predict opposition will be present as was last year. Rainbowatonna hoped to acquire an exclusive use of the park, but this is not offered in

Owatonna. They rented the large pavilion and have an Event Permit for use of the park area and several parking spaces for food vendors. There is common ground within the permitted area, but the permit allows them to conduct their event and opposition will be asked to leave. She asked for additional suggestions in creating a positive event environment, city staff recently suggested relocating this event to Dartts Park which the Rainbowatonna Board of Directors is currently considering.

Commissioner Gunderson commented that he and Commissioner Cords gave an update to the Council about the OHRC activities during the April 16th Study Session. The 2023 Annual Report was shared and was well received by the Council. He credited previous commissioners Jamie VanOsborne, Ethan Cords and David Emanuelson for transforming the OHRC from being a reactive commission to becoming a proactive group. He considers them as friends and will miss their participation in the OHRC and looks forward to working with the new members. The terms of these previous commission members expired this year, and members were not eligible for reappointment as they had served the maximum number of consecutive terms allowed per the City's ordinance.

ADJOURNMENT

At 6:38 p.m., Commissioner Leon made a motion to adjourn, Commissioner Esquivel seconded the motion, and the meeting was adjourned. The next meeting will be held on Tuesday, June 11, 2024, at 5:30 p.m. in the Meeting Room of the Charles S. Crandall Center.

Respectfully submitted,

Jeanette Clawson, Administrative Coordinator

OWATONNA PLANNING COMMISSION MINUTES FOR MAY 14, 2024

The Owatonna Planning Commission met in regular session at 5:30 p.m. in the Charles S. Crandall Center – Chambers at City Hall with Chairperson Kelly Rooks conducting the meeting. Present at roll call were Commissioners Rachel Springer-Gasner, Kelly Rooks, John Eickhoff, Nick Peake, and David Effertz. Commissioners Mark Meier and Mark Wilson were absent. Community Development Manager Greg Kruschke, Planning Specialist Ashley Zidon, and Administrative Technician Kristen Kopp were also present.

A motion was made by Springer-Gasner and seconded by Eickhoff to approve the minutes of the regular meeting of April 23, 2024. All Commissioners voting Aye, the motion carried.

Preliminary Plat of Cashman Addition No. 3, which is a 0.56± acre tract of land zoning R-1 Single Family Residential District and requested to be rezoned to R-6 High Density Residential District, Community Business District, requested City of Owatonna and located at 285 22nd Street NW, was presented by Planning Specialist Ashley Zidon. (Refer to report on file.) Public hearing opened at 5:36 pm. No comments were made regarding this request. Public hearing closed at 5:37 pm. Eickhoff asked if there were any parks nearby and wondered if a pocket park was a consideration for this lot. Zidon said we have Manthey Park to the east and Cashman Park to the north and west. Kruschke said that one of the City's goals is to get larger parks rather than the smaller parks as they're harder to maintain. Effertz asked how long the City has owned this lot. Kruschke said this was a donation that came from the Cashman family. Springer-Gasner asked how big of a dwelling might fit—a four-unit complex? Zidon said that density will be something that is looked at in the RFP. Kruschke said we'll have to go through the process. A motion was made by Effertz and seconded by Eickhoff to recommend City Council approval of this preliminary plat of Cashman Addition No. 3, based on findings of fact and the following conditions:

- 1) Future development needs to comply with all state and local requirements and codes at the time of construction.

All Commissioners voting Aye, the motion carried.

Application No. RZ-7, which is a request by the City of Owatonna to rezone the subject property from R-1 Single Family Residential District to R-6 High Density Residential District for the purposes of residential redevelopment for the subject property to be addressed 2285 22nd Street NW, was presented by Planning Specialist Ashley Zidon. (Refer to report on file.) Public hearing opened at 5:45 pm. No comments were made regarding this request. Public hearing closed at 5:46 pm. Effertz said this makes sense. A motion was made by Effertz and seconded by Springer-Gasner to recommend approval of this rezoning of Lot 1, Block 1, Cashman Addition No. 3 from R-1 Single Family Residential District to R-6 High Density Residential District based on findings of fact. All Commissioners voting Aye, the motion carried.

Kruschke said they've been meeting with a number of City Staff and presented to City Council on the 2050 Comprehensive Plan. They've got everything online. As of yesterday, the story map is online and everything on the website is up to date. There have been some social media invites and an announcement on Straight Talk. Following the open house on Thursday, we will have information available online and will be taking comments through June, most likely. It will be closed out in the Fall with final adoption. He said he hoped the Commissioners would be able to attend the open house.

A motion was made by Springer-Gasner and seconded by Effertz to nominate Kelly Rooks as President. All Commissioners voting Aye, the motion carried.

A motion was made by Peake and seconded by Eickhoff to nominate Rachel Springer-Gasner as Vice President. All Commissioners voting Aye, the motion carried.

Kruschke gave an update on previous items and presented the April building permit reports. We're almost 150 permits over last year at this time. Valuation should continue to be strong. We are at three single family home permits compared to four at this time last year.

A motion was made by Eickhoff to adjourn and seconded by Peake at 5:53 pm. All Commissioners voting Aye, the motion carried.

Respectfully Submitted,

Greg Kruschke
Community Development Manager



CITY OF
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Department Reports



2024

Parks, Recreation and Facilities Update

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Jenna Tuma, Director

DATE: 5/21/2024

"What you do makes a difference, and you have to decide what kind of difference you want to make."
– Jane Goodall

Parks, Recreation and Facilities Administration

1. Continue working with ICS on the Safety Center and Community Center efforts.
2. Finalizing the development of the Fall/Winter Active Guide.
3. Assisting with Website redesign/Parks & Rec pages
4. Jenna went to the OHS with Kris, Sean, and Troy to speak to a class interested in Local Government/Civics
5. Working with staff to prepare for the 2025 budget process.
6. Staff clothing has been ordered and distributed with the new City brand; thanks to Deanna for her help!
7. Advance Audio and Lighting will be on site on May 20 to finalize the Chambers AV/IT
8. The staff parking lot pavement and new sanitary structure project will start in the next two weeks.
9. Staff are working on updating Parks and Recreation City Ordinances.

Park Maintenance

1. We are working on the new automatic gates at Lake Kohlmier and Dartts Park. Due to the supply chain, we are 6 -8 weeks out on electrical panels and meters. See the photo below.
2. The pavilion/shelters have started, and staff are busy each week prepping them.
3. Corky's tournament, held from May 3 to 5, went very well, and the crew did an amazing job.
4. Opened bids this week for the crack seal and seal coating project for this summer pavement management.
5. On May 14, we Treated Lake Kohlmier, keeping the weeds out of the swimming area. We will be cutting some areas in the lake in mid-June.

6. The Brooktree grounds are in great shape. Staff are planting trees to replace the ones cut down over the winter.
7. Kris is visiting Brooktree on May 23 to see the operations." Where is Kris?"
8. The Downtown rock fountains were installed on Cedar on May 7. Wood chips are added to all planter beds downtown for a fresh look.
9. The Downtown flowers were planted at Central Park on May 16 on the four corners. Cedar Valley Services plants them and does a wonderful job. They start them in their greenhouse, so they look very nice immediately.



Recreation

Click or tap here to enter text.

Athletics

1. Adult Bean Bag League
 - a. Begins May 29 (Recreation & Competitive)
 - b. Teams 45 Teams total
2. T-Ball, Mini Sluggers Machine/Player Pitch Baseball and Adaptive Baseball – all begin the week of June 3

Aquatics

1. River Springs
 - a. Opening June 5 at 4:00 p.m.
 - b. Filled pool on 5/16/24, now balancing chemicals.
 - c. Season Pass Holders: 165
2. Lake Kohlmier Beach Rental & Beach
 - a. Opening May 25 at 12:00 p.m.
 - b. Season Pass Holders: 6 (Zero sold in both 2022 and 2023)
3. Swimming Lessons
 - a. Session 1 Summer Lessons registration started on 5/16/24

Brooktree Golf Course

1. Active Season Pass Holders = 395
2. 9- & 18-hole rounds played through 5/15/24 = 3338
3. "Where is Kris" at Clubhouse May 23rd

Programs

1. Straight River Kayaking Trip – June 7 (1st time offering this program)
2. Riverboat Cruise – June 8th (Full)

Other:

1. Updating Parks and Recreation Website for Redesign Go-Live in June
2. Prepping Fall/Winter Activity Guide

Government Buildings

CIP

- Received bids for tuckpointing of City Hall, awaiting Council approval
- Received CIP project bids for:
 - Fire Hall MUA
 - Social Commons- Rooftop unit
 - Mechanic shop Ventilation

Merrill Hall update

- Temporary lights are getting installed.
- The waterline from the street is tapped into the building. (Needs to be tested)
- Abatement is complete. The vendor is on call for anything else that may pop up.
- Laying out ductwork and cutting holes on the lower level.
- Soffits are framed and getting sheetrock.
- Finish up sheetrock and start taping.
- Layout duct and start cutting holes on 1st floor.
- Start hanging duct on the lower level.
- Finish up temp lights throughout the building.



Click or tap here to enter text.

GB Operations

- The water park is ready for water and is being filled on May 16.
- Working on building a wall in the Building Inspection area to create an office on the 2nd floor at City Hall.
- Staff built eight bean bag sets for the Rec. dept.
- Finished up some removal of old cabling in Merrill Hall on the second floor.
- Flooring for LEC Fitness Center has been completed.



Owatonna Police Department

April 2024 Crime Statistics

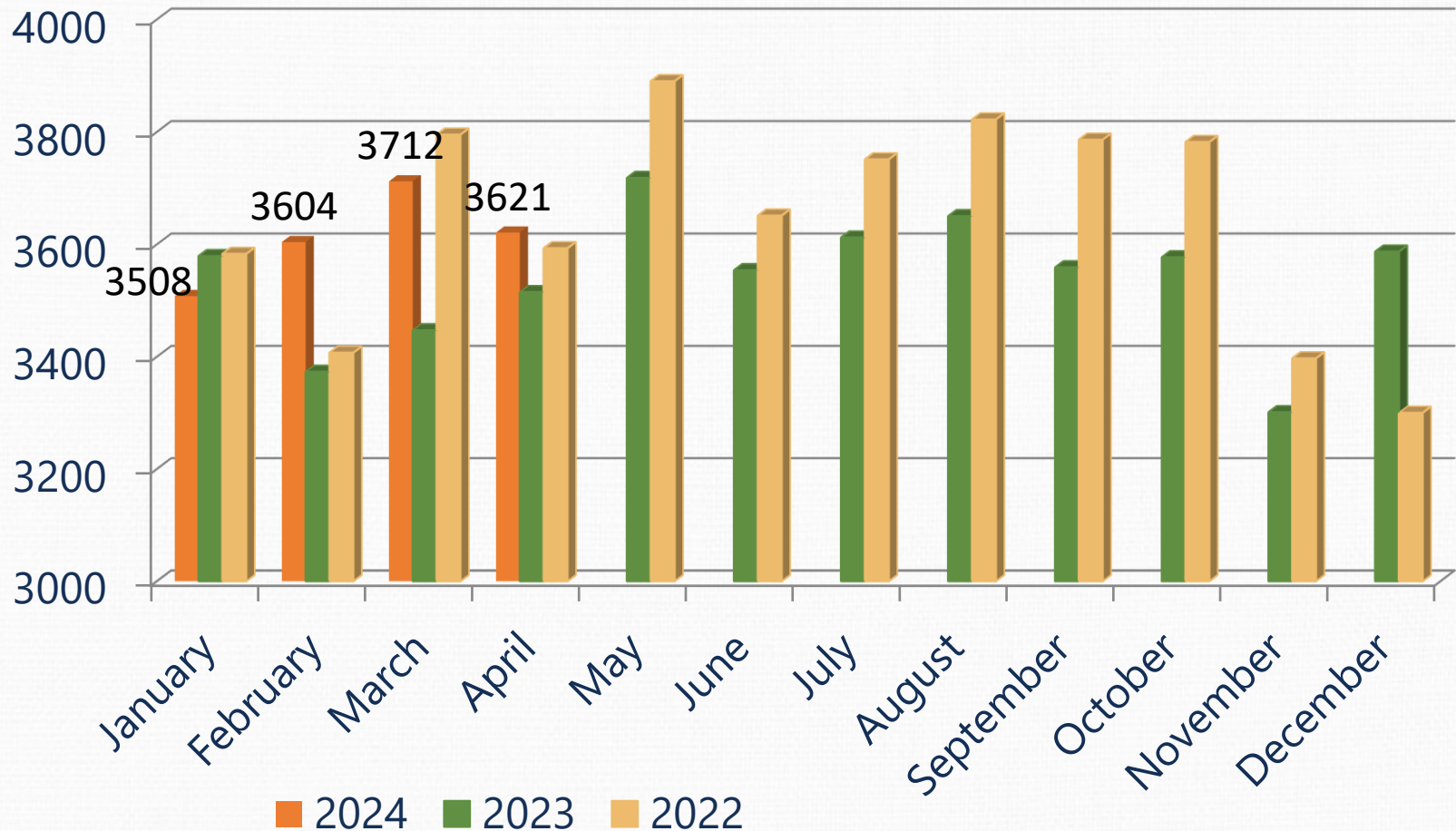


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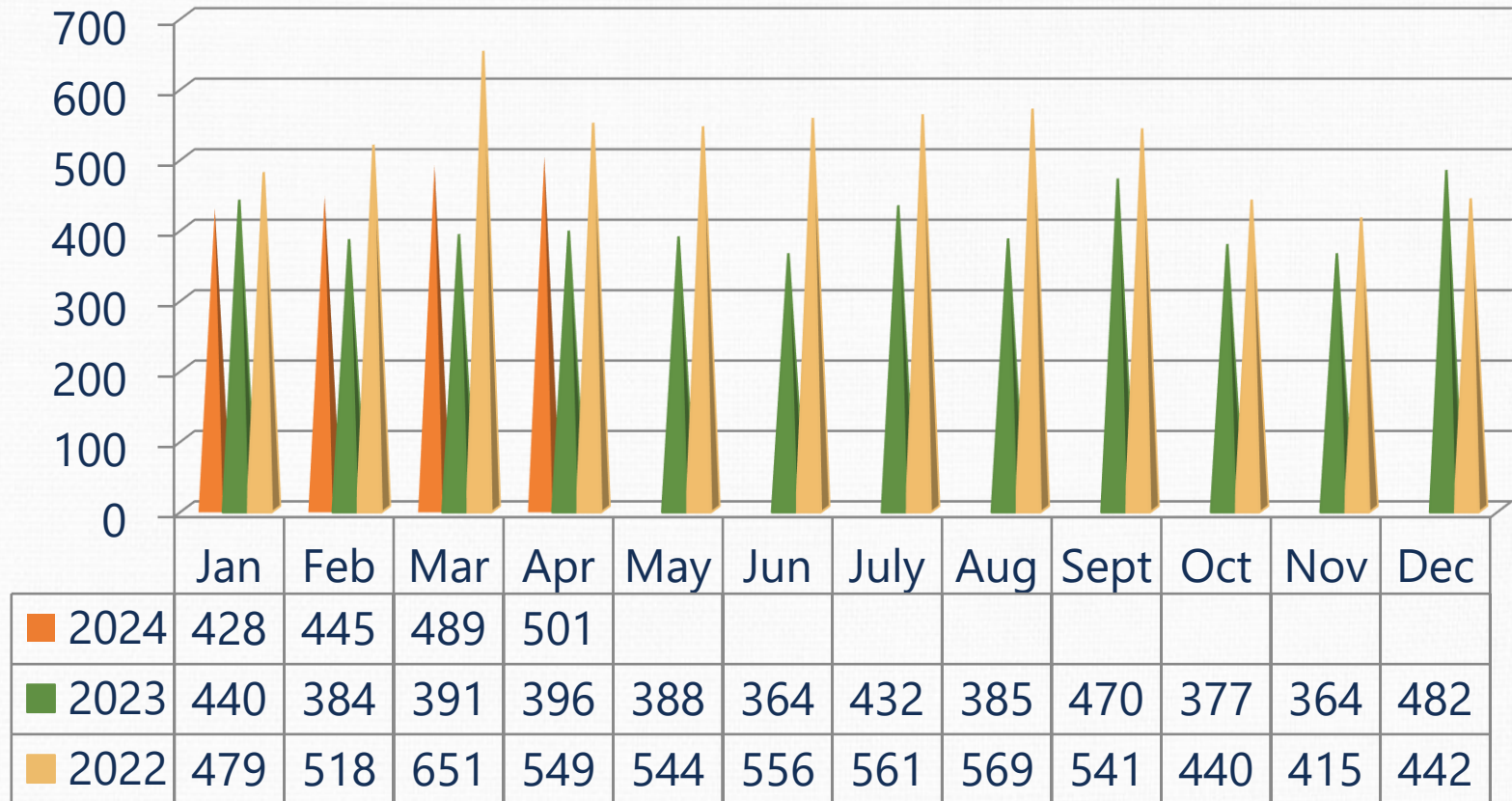


**The following statistics are based on calls for service reports compiled monthly.
Official crime data can be found in our [annual reports](#).**

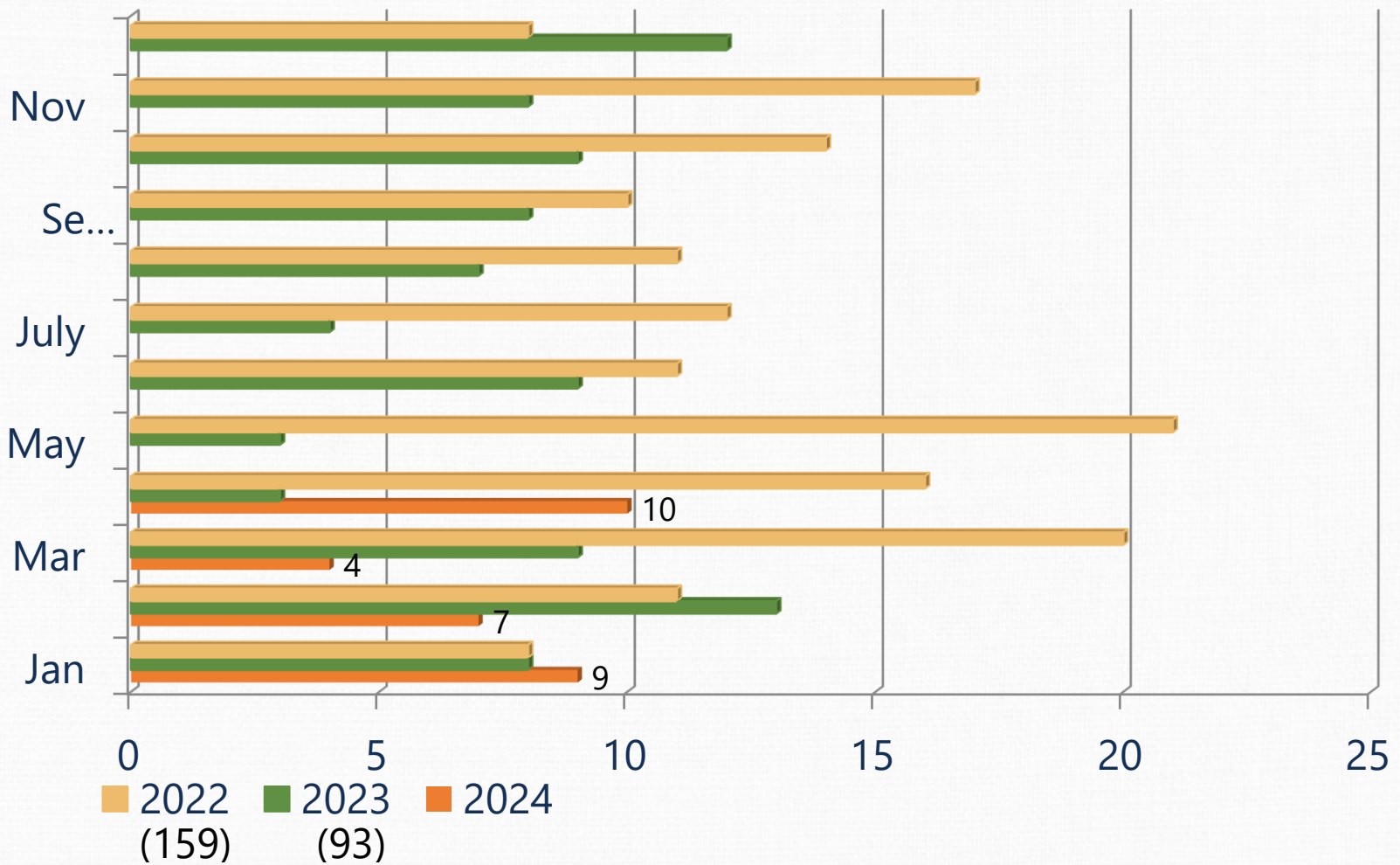
Total Calls for Service



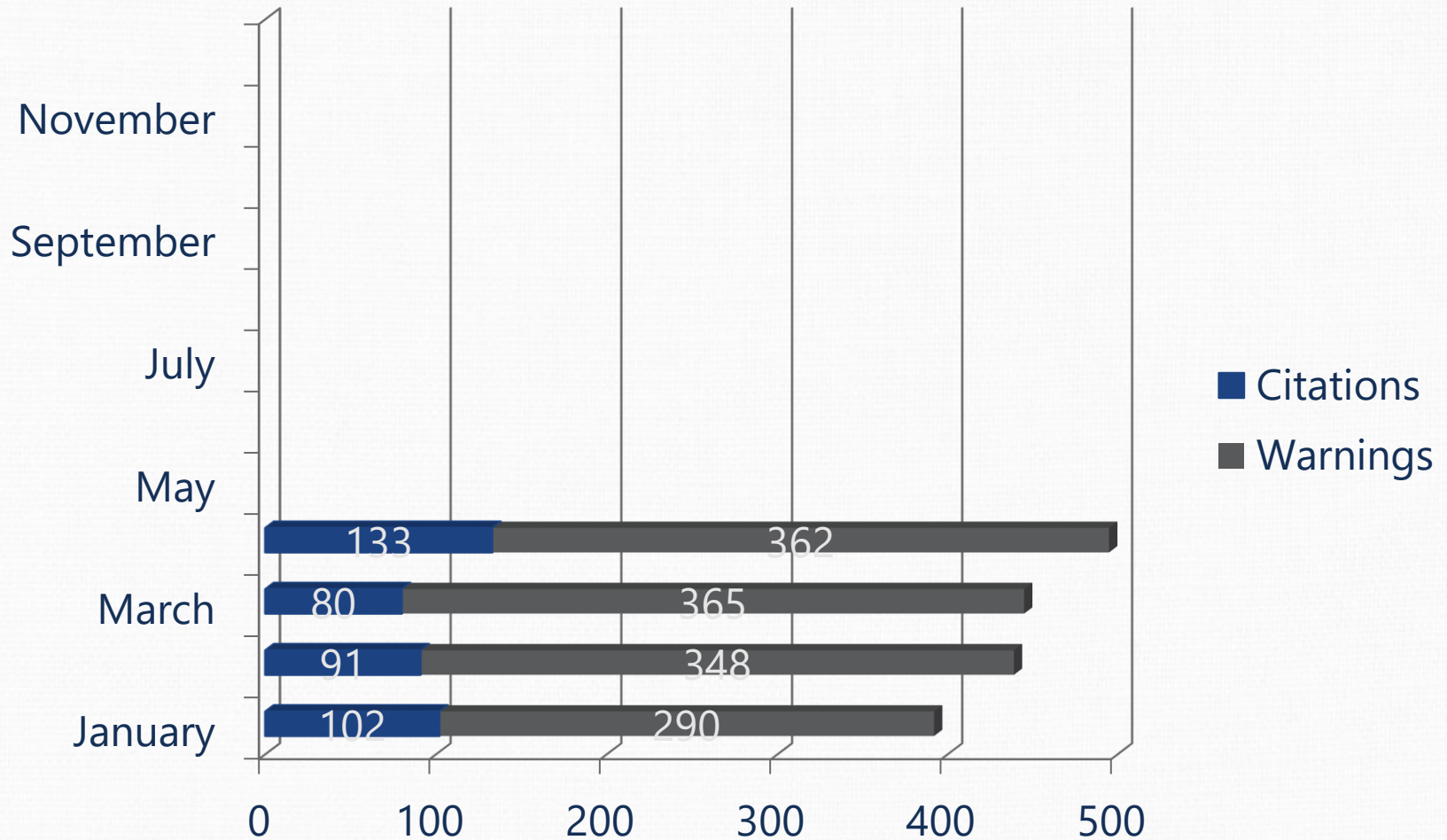
Traffic Stops



DWI



Citations and Warnings



Group A Crimes

Murder and Non-Negligent Manslaughter	0	Burglary/Breaking & Entering	7	Wire Fraud	1
Kidnapping/Abduction	0	Shoplifting	31	Identity Theft	8
Rape	4	Theft From Building	6	Embezzlement	1
Sexual Assault with an object	0	Theft From Motor Vehicle	4	Stolen Property Offenses	0
Fondling	11	Theft of Motor Vehicle Parts or Accessories	1	Destruction/Damage/Vandalism of Property	16
Robbery	2	All Other Larceny	10	Drug/Narcotic Violations	13
Aggravated Assault	10	Motor Vehicle Theft	5	Drug Equipment Violations	1
Simple Assault	35	Counterfeiting/Forgery	8	Pornography/Obscene Material	1
Intimidation (Assault)	7	False Pretenses/Swindle/Confidence Game	10	Weapon Law Violations	3
Arson	1	Credit Card/Automated Teller Machine Fraud	6	Human Trafficking, Commercial Sex Acts	0
Extortion/Blackmail	1	Impersonation	1	Animal Cruelty	0

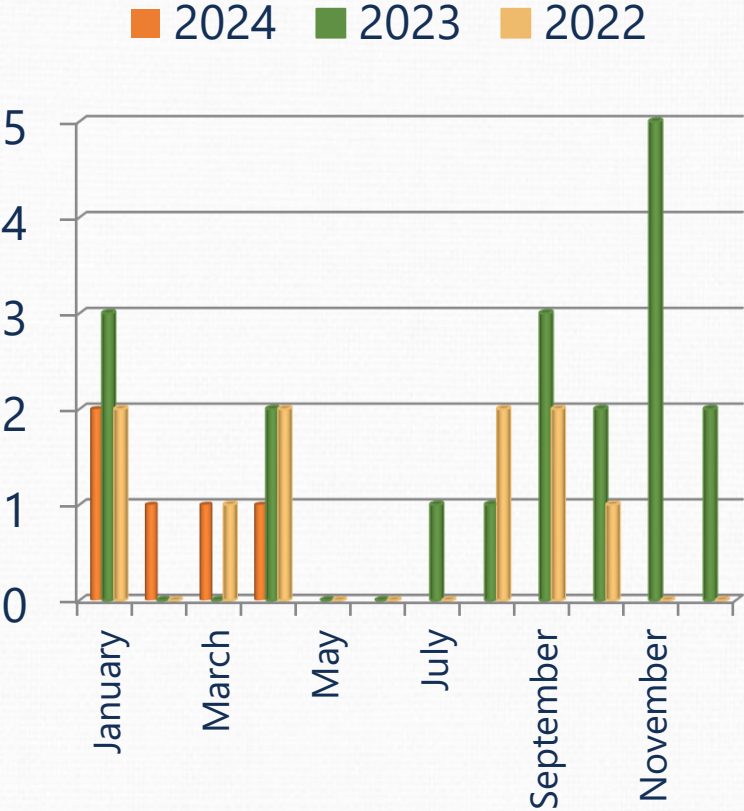
TOTAL 204

Group B Crimes

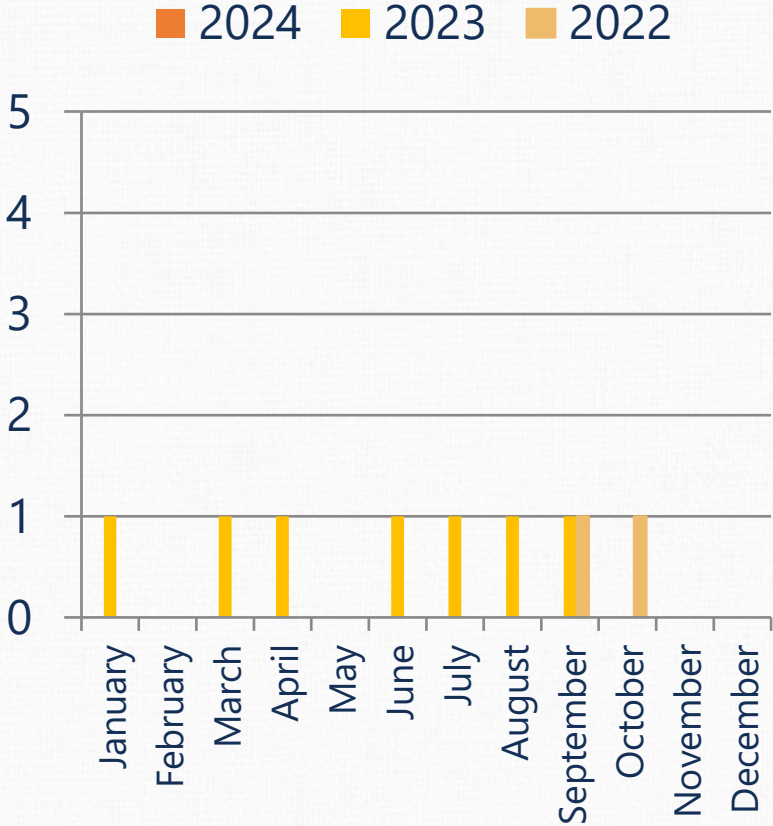
Curfew/Loitering/Vagrancy Violations	2
Disorderly Conduct	12
Driving Under the Influence	39
Family Offenses, Nonviolent	0
Liquor Law Violations	10
Trespass of Real Property	3
All Other Offenses	47
Total 113	

Disorderly and Nuisance Violations

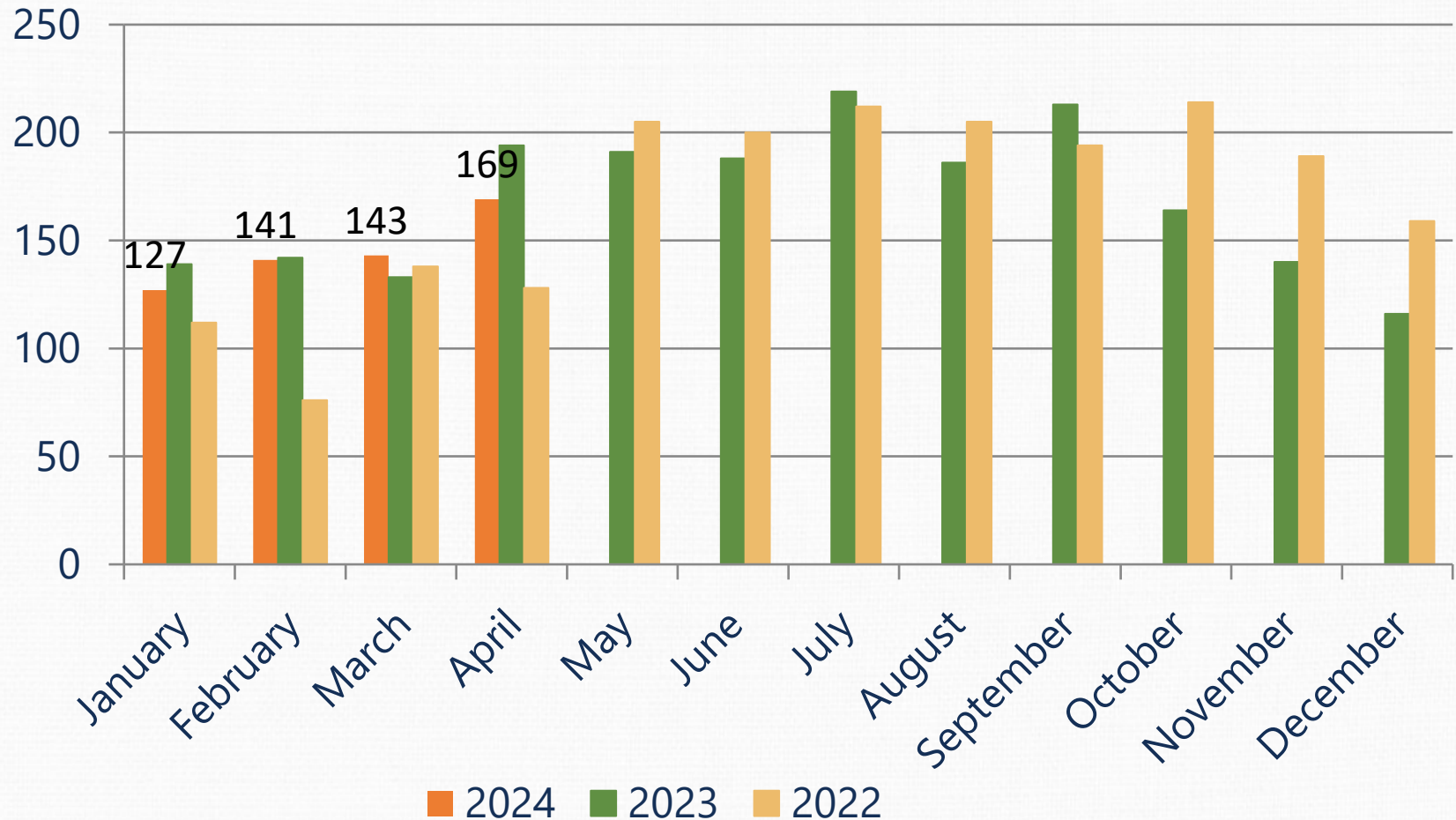
Disorderly Violations



Nuisance Violations



Animal Control Calls





CITY OF
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Licenses Permits



CITY OF
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Event Permits

EP-24-20**Events Permit Application**

Status: Active

Submitted On: 4/16/2024

Primary Location

No location

Applicant Anthony Malepsy 507-491-0277

anthony.malepsy@owatonna.gov

 204 East Pearl Street
Owatonna, Minnesota
55060

Event Information**Event Name**

2024 Steele County Safety Camp

Event Contact*

Leila Kath

Location of Event*

Kaplans woods/Lake Kolmier Beach and Steele County Fairgrounds

Description of Event* ?

Camp about safe summer for activities for children entering 4th grade

Event Set Up Date

06/06/2024

Event Set Up Time* ?

0700

Actual Event Date*

06/06/2024

Actual Event Time* ?

0730

Clean Up Date*

06/06/2024

Clean Up Time ?

1700

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

Canceled

Estimated Attendance* ?

250

Application Information

Sponsoring Organization Name*

Steele County Safety Camp

Mailing Address*

107 W Main St

City*

Owatonna

State*

Minnesota

Zip*

55060

Website Address*

Owatonna.gov

Primary Contact

Name*

Leila Kath

Phone Number*

5074561150

Cell Phone

Email Address*

leilakath@owatonna.gov

Primary On-site Contact

Name*

Anthony Malepsy

Cell Phone*

5073835339

Alternate On-site Contact

Name*

leila Kath

Cell Phone*

5074561150

Refer Media or Citizen Inquiries To:

Name*

Leila Kath

Phone*

5074561150

Event Features

City Streets or Right-of-Way*

Yes

Start/End Time*

0700

Date*

06/06/2024

Name of Requested Street(s)*

Kaplans Woods parking lot to Boat
landing/ Beach access

Alleys*

No

City Sidewalks or Trails*

Yes

Start/End Time*

0700

Date*

06/06/2024

Public Parking Lots or Spaces*

No

Parks*

Yes

Start/End Time*

0700

Date*

06/06/2024

Name of Requested Park(s)*

Lake Kohlmeir and boat access

Will any signs/banners be put up?*

No

Will there be any inflatables?*

No

Will there be entertainment?*

No

Will sound amplification be used?*

No

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

No

Will there be temporary fencing?* 

No

Will merchandise/food items be sold?*

No

Will food be prepared on site?*

No

Will alcohol be sold?*

No

Will this event require a Temporary Liquor Permit?*

No

Will there be a fireworks display?*

No

Describe power needs and location of power source*

Power from Pavilion at Boat Access

Describe level of advertisement* 

Radio, websites, School advertisements, word of mouth

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

Yes

Number Needed

Size Needed*

4

Large

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?*

Number Needed*

Yes

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?*

Will there be any horses?*

No

No

Describe trash removal and cleanup plan during and after event*

Trash companies are hired by camp to take care of trash as they provide dumpsters

Will event need traffic control?*

No

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

Law Enforcement and other first responders are on scene if something was to happen

Will "No Parking" signs be needed?*

No

Will event need security?*

No

Will event need Emergency Medical Services?*

No

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

First Responders at the event will keep an eye on the weather and shelter. LE Radios on scene.

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

Name*

Anthony Malepsy

Phone Number*

5073835339

Email*

anthony.malepsy@owatonna.gov

List any other pertinent information

We need the entrance of Kaplans woods and parking lot to the lake access for this event through out the day. Site plan is attached and is highlighted yellow in the area of the beach for swimming safety and boating safety for activities we are doing that day. Boat access area that is highlighted is the primary location of our event where we will have main base with majority of our activities for Safety.

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

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*

✓ Anthony Malepsy
Apr 16, 2024

Internal Use

June 6th - 2024 Safety Camp. Request use of Kaplan's Woods, Lake Kolmier Beach, 4 barricades and 50 cones. Event will also be at the Steele County Fairground
Items requesting: 100 cones for both days June 6-7th drop off lake kohlmier

🗳 **Special Provisions**

Day 1 June 6th ONLY - 2 golf carts/gators, 4 port-a-pottys,

June 7th items: , push lawn mower, Chainsaw, Weed whip, snowblower, hedge clippers, axe

🗳 Fire Department Approval / Comments / Notes

Approve - no comment.

🗳 Park & Rec. Department Approval / Comments / Notes

Staff to verify item use.

🔒 **Police Department Approval / Comments / Notes**

Approved!

🔒 **Public Works Department Approval / Comments / Notes**

with having 2 locations' how many cones/barricades would you like dropped off at each

🔒 **Building & Inspection**

Appvoe, no comment.

🔒 **Date to Council**

— May 21st Council Consent Agenda Item.

🔒 **Council Notes**

🔒 **Items Needed**

Attachments



Site Plan

Site Plan.PNG

Uploaded by Anthony Malepsy on Apr 16, 2024 at 4:34 PM

REQUIRED

Lake Kohlmeier
Fishing Pier



ch

Lake
Kohlmeier

Lake Kohlmeier





EP-24-25

Events Permit Application

Status: Active

Submitted On: 5/10/2024

Primary Location

No location

Applicant



Lisa Cochran



507-475-3451



lcochran@owatonna.org



120 S Oak Ave

Owatonna, MN 55060

Event Information

Event Name

Downtown Thursdays

Event Contact*

Lisa Cochran

Location of Event*

Downtown Owatonna - 100, 200, 300 blocks of N Cedar Ave, Central Park, Broadway St, Pearl St, Vine St

Description of Event* ?

Downtown Event with food trucks, entertainment, vendors and more

Event Set Up Date

06/06/2024

Event Set Up Time* ?

2:00pm

Actual Event Date*

06/06/2024

Actual Event Time* ?

5:00pm

Clean Up Date*

06/06/2024

Clean Up Time ?

10:00pm

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

Canceled

Estimated Attendance* ?

7000

Application Information

Sponsoring Organization Name*

Main Street Owatonna

Mailing Address*

120 S Oak Ave

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

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

City Streets or Right-of-Way*

Yes

Start/End Time*

2:00pm-10:00pm

Date*

06/06/2024

Name of Requested Street(s)*

N Cedar Ave, E and W Park Square,
Broadway

Alleys*

No

City Sidewalks or Trails*

No

Public Parking Lots or Spaces*

Yes

Start/End Time*

2:00pm-10:00pm

Date*

06/06/2024

Parks*

Yes

Start/End Time*

2:00pm-10:00pm

Date*

06/06/2024

Name of Requested Park(s)*

Central park

Will any signs/banners be put up?*

Yes

Number and Size*

Between 12-24, 18inches x 24 inches, with some larger in the band shells

Will there be any inflatables?*

Yes

Insurance certificate from rental vendor is required. *No staking without approval*

Will there be entertainment?*

Yes

What Type*

music and activities

Will sound amplification be used?*

Yes

Type*

Whatever the band uses

Hours*

5:30pm-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?*

Yes

Dimensions*

10x10

Fees may apply. No staking without approval.

Will there be temporary fencing?*

No

Will merchandise/food items be sold?*

Yes

How many vendors expected?*

75

Will food be prepared on site?*

Yes

Will alcohol be sold?*

Yes

Who will be providing the liquor license?*

The participating businesses with a catering license

Is this a caterer with an alcohol endorsement on their license?*

Yes

Will this event require a Temporary Liquor Permit?*

Yes

Additional documentation and fees are required

Will there be a fireworks display?*

No

Describe power needs and location of power source*

The power outlets in Central Park and along N Cedar Ave all will be in use, please make sure they are working.

Describe level of advertisement* ?

Radio, print, social media, posters

Have adjacent property owners been notified of this event?*

Yes

Signatures required.

Will the event need barricade(s)?

Number Needed

Yes

15

Size Needed*

Large

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?*

Number Needed*

Yes

99

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?*

Number Needed*

Yes

1

Will there be any horses?*

Number Animals Anticipating*

Yes

1

How will horses be used?*

As a display for a vendor that does horse therapy in a fenced in area

Please provide insurance information and complete Hold Harmless Agreement

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

☒ Monte Mowry
May 3, 2024

Describe trash removal and cleanup plan during and after event*

Extra trash receptacles are donated, volunteers clean up trash, vendors are responsible for their own trash

Will event need traffic control?*

No

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

Bull horn to yell at people that are not following the rules, golf cart to get from one place to another quickly if needed, volunteers aware they may need to assist if needed. This has not been an issue in the past

Will "No Parking" signs be needed?*

Number Needed*

Yes

120

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

Will event need security?*

Will event need Emergency Medical Services?*

No

No

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

Decision will be made by 11am the day of the event. Posted on socail media, emails sent out, announced on radio

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

Name*

Phone Number*

Lisa Cochran

507-475-3451

Email*

llcochran@owatonna.org

List any other pertinent information

We will need picnic tables delivered along N Cedar Ave, please. They can be placed in the alleyways in 100, 200, 300 blocks of N Cedar. We will need 12 in the 300 block, 8 in the 200 and 100 blocks. We will have custom No Parking signs made for the city to place 24 hours before 2:00pm on Thursday. **Please have all the power outlets checked before each event in Central Park and along Cedar Ave.** Extra patrols are always appreciated, especially the bike patrol. Waiting for Proof of Insurance from agent, will send to Jeanette when I receive. Main Street appreciates the relationship we have with the City of Owatonna and it's entities and we do not take the time and no charge for items for granted. We will acknowledge the City of Owatonna as one of our sponsors and they will be recognized on all types of promotions. Our goal is to have a successful and safe event in Downtown Owatonna.

*Note: There are additional parking spots(from last year) that need to be blocked off, added number of picnic tables needed (from last year) along Cedar. An email and a mailed letter will be shared with all businesses downtown regarding the No Parking and blocked off streets.

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

Central Park Stage Usage Information

Time*	Open*
2:00pm	2:00pm
Close*	Sound or Light Person Needed*
10:00pm	No
Size of Group that will be on stage*	Type of Group* ?
5-8	musical
Name of Person that will be Opening and Closing of Stage* ?	
Brad Meier or Lisa Cochran	

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 Cochran
May 3, 2024

Internal Use

🔒 Special Provisions

June 6th - Downtown Thursday. In Central Park and blocking streets as last year 2:00 -10:00 pm; asking for 15 barricades and 99 cones, 20 Picnic tables along N Cedar Ave, parking spaces along Rose, N Cedar, around Central Park, Pearl & Vine Streets as shown on attachment; applicant will place "No Parking Signs" and have sent letter to downtown businesses. Bike Patrol during the event will be appreciated.

🔒 Fire Department Approval / Comments / Notes

Approved, no comment.

Park & Rec. Department Approval / Comments / Notes

Approved. This is a great partnership! I have left a message for Lisa and we will work through the details of staking inflatables & tent, as well as where the horse is going. Cost approximately \$800 for amenities and labor.

Police Department Approval / Comments / Notes

Approved. \$500.00 to staff each downtown Thursday event with two off-duty police officers.

Public Works Department Approval / Comments / Notes

Approved. Streets will do as we have done in the past. 507-456-5028

Building & Inspection

Approved, no comment.

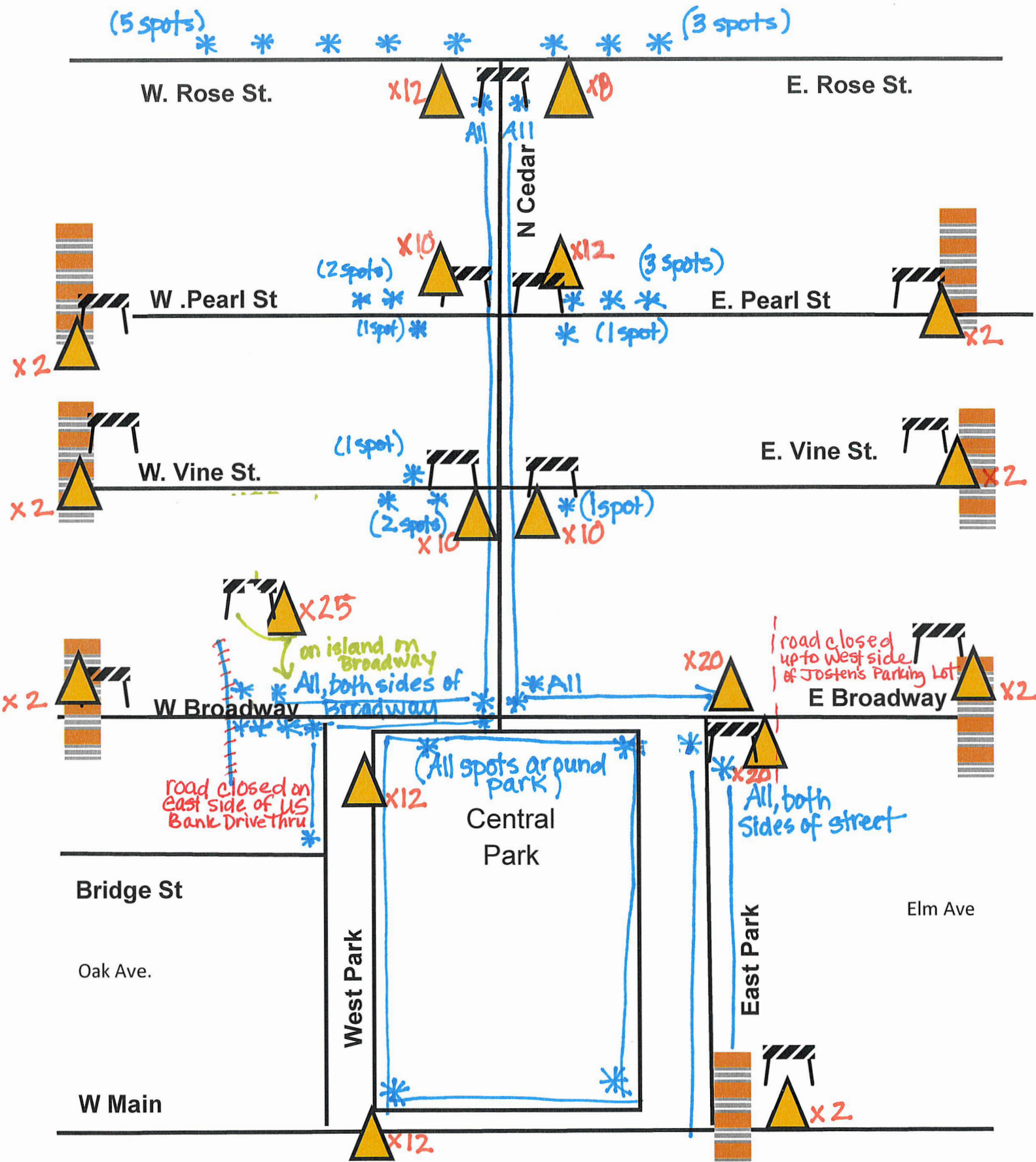
Date to Council

— May 21st Consent Agenda Item.

Council Notes

Items Needed

Attachments



= barricades or road
 = road closed ahead
 = cones
 = No Parking (Signs)

EP-24-27**Events Permit Application**

Status: Active

Submitted On: 5/14/2024

Primary Location

No location

Applicant Naomi Jirele 507-213-0389 naomi4664@gmail.com 133 W Mill St
OWATONNA, MN 55060

Event Information**Event Name**

HOST SPRING SING

Event Contact*

Kaisha Troe

Location of Event*

front lawn of West Hills

Description of Event* ?

Singing with one person lead w/ guitar - a worship gathering

Event Set Up Date

06/09/2024

Event Set Up Time* ?

5:30pm

Actual Event Date*

06/09/2024

Actual Event Time* ?

6:30pm

Clean Up Date*

06/09/2024

Clean Up Time ?

8:30pm

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

Canceled

Estimated Attendance* ?

75

Application Information

Sponsoring Organization Name*

HOST

Mailing Address*

133 W Mill ST

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

Primary Contact

Name*

Kaisha Troe

Phone Number*

507-676-6018

Cell Phone

same

Email Address*

kaishastricklin@gmail.com

Primary On-site Contact

Name*

Naomi Jirele

Cell Phone*

507-213-0389

Alternate On-site Contact

Name*

Ryan Kubat

Cell Phone*

507-390-4777

Refer Media or Citizen Inquiries To:

Name*

Kaisha Troe

Phone*

507-676-6018

Event Features

City Streets or Right-of-Way*

No

Alleys*

No

City Sidewalks or Trails*

No

Public Parking Lots or Spaces*

Yes

Start/End Time*

5:25pm/8:55pm

Date*

06/09/2024

Parks*

No

Will any signs/banners be put up?*

No

Will there be any inflatables?*

No

Will there be entertainment?*

Yes

What Type*

single vocal and guitar

Will sound amplification be used?*

Yes

Type*

small amplifier

Hours*

6:30pm-8:30pm

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?*

No

Will food be prepared on site?*

No

Will alcohol be sold?*

No

Will this event require a Temporary Liquor Permit?*

No

Will there be a fireworks display?*

No

Describe power needs and location of power source*

An outlet for the one amplifier. Any source on the outside of the building? If not, we will bring a small generator.

Describe level of advertisement* ?

social media

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

No

Will the event need cones?*

No

Will Central Park Stage be used?*

No

Will there be any horses?*

No

Describe trash removal and cleanup plan during and after event*

We will remove and dispose of any trash.

Will event need traffic control?*

No

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

If attendees are allowed to park in the West Hills parking, given its on a Sunday, we should have no issue people being safe. They will simply walk their lawn chairs or with their blankets to the lawn. If lawn is not allowed, we are fine being in the same location as the Day of Prayer event (by the flag display)

Will "No Parking" signs be needed?*

No

Will event need security?*

No

Will event need Emergency Medical Services?*

No

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

We have one person assigned to weather watching; he will advise leaders of oncoing hazards, and crowd will be asked to head to their vehicles and go home.

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

Name*

Ryan Kubat

Phone Number*

507-390-4777

Email*

ryan@corporaterecognition.com

List any other pertinent information

Please ask any questions of Kaisha or Naomi, if they arise. Thank you! Also, on our submitted photo, the purple circle shows our first choice for the gathering. The yellow circle is the second choice (where the prayer day usually occurs).

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

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*

✓ Naomi Jirele
May 14, 2024

Internal Use

🔒 Special Provisions

🔒 Fire Department Approval / Comments / Notes

Approved, no impact on FD.

🔒 Park & Rec. Department Approval / Comments / Notes

Approved, staff to advise West Hills Commission of the event, I do not anticipate any objections from them. Two comments regarding the grassy area. Please avoid using newly seeded and areas under repair in the north section. Also, a slight concern regarding how steep the front lawn is.



EP-24-2**Events Permit Application**

Status: Active

Submitted On: 1/8/2024

Primary Location

No location

Applicant Leslea Partridge 507-319-4571 harrywmbf09@gmail.com 138 W. Rice St.
Owatonna, MN 55060

Event Information

Event Name**Event Contact***

Leslea Partridge

Location of Event*

Owatonna

Description of Event* ?

Harry Wenger Marching Band Festival - Competitive street marching band parade

Event Set Up Date

06/15/2024

Event Set Up Time* ?

6am

Actual Event Date*

06/15/2024

Actual Event Time* ?

11:00am to 2:00pm

Clean Up Date*

06/15/2024

Clean Up Time ?

2:00pm to 3:30pm

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

Canceled

Estimated Attendance* ?

4000

 Is this event a dance?*

No

Application Information

Sponsoring Organization Name*

Harry Wenger Marching Band Festival,
Inc.

Mailing Address*

PO Box 188

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

<http://www.owatonnabandfestival.com>

Primary Contact

Name*

Leslea Partridge

Phone Number*

507-319-4571

Cell Phone

507-319-4571

Email Address*

harrywmbf09@gmail.com

Primary On-site Contact

Name*

Leslea Partridge

Cell Phone*

507-319-4571

Alternate On-site Contact

Name*

Amy Ackman

Cell Phone*

320-226-5822

Refer Media or Citizen Inquiries To:

Name*

Amy Ackman

Phone*

320-226-5822

Event Features

City Streets or Right-of-Way*

Yes

Start/End Time*

9:00am - 2:00pm

Date*

06/15/2024

Name of Requested Street(s)*

The Parade Route, practice streets, bus parking streets and areas around Central Park. Map can be provided.

Alleys*

No

City Sidewalks or Trails*

No

Public Parking Lots or Spaces*

No

Parks*

No

Will any signs/banners be put up?*

No

Will there be any inflatables?*

No

Will there be entertainment?*

Yes

What Type*

Music in bandshell at Central Park

Will sound amplification be used?*

Type*

Yes

Festival provides amplification system

Hours*

Will sound be amplified after 10:00pm?*

11:45am - 1:30pm

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?*

Will there be temporary fencing?* ?

No

No

Will merchandise/food items be sold?*

How many vendors expected?*

Yes

1

Will food be prepared on site?*

Will alcohol be sold?*

Yes

No

Will this event require a Temporary Liquor Permit?*

Will there be a fireworks display?*

Yes

No

Describe power needs and location of power source*

The power will only be needed from the electrical pole by the Federated building on Elm Street across from Premier Bank.

Describe level of advertisement* ?

Website, Facebook, Owatonna People's Press, Owatonna Chamber of Commerce/MN Dept of Tourism, Steele County Times, radio spots on KRFO and KOWZ, and marquee on Steele County Fairgrounds.

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

Yes

Number Needed

15

Size Needed*

Large

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*

100

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*

1

Will there be any horses?*

No

Describe trash removal and cleanup plan during and after event*

We obtain trash bins from Waste Management. They are rounded up and placed in Central Park so that Waste Management can pick them up.

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*

With the help of the City, band practice streets on either side of Lincoln Ave and south of University St. are blocked off. The streets that intersect with the parade route are blocked off prior to the start of the parade, usually around 10am. As soon as the last band is done marching, we open up the parade route streets. When the band buses depart, we open up the streets where the buses parked downtown.

Will "No Parking" signs be needed?*

Number Needed*

Yes

70

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

Will event need security?*

Will event need Emergency Medical Services?*

Yes

No

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

Prior to the Festival, a couple of members of the Festival Board meet with the City street department, Owatonna Park & Rec, Steele County Park & Rec, and the Owatonna Policy Department to discuss the best plan for severe weather.

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

Name*

Phone Number*

Leslea Partridge

507-319-4571

Email*

harrywmbf09@gmail.com

List any other pertinent information

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

Central Park Stage Usage Information

Time*

10am

Open*

9am

Close*

3pm

Sound or Light Person Needed*

No

Size of Group that will be on stage*

4

Type of Group* ?

DJ, and then 3 festival members to hand out awards.

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

We ask that Park Staff open and close the stage.

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*

✓ Trent Spatenka, Logistics
Coordinator
Jan 8, 2024

Internal Use

🔒 Special Provisions

Application received with traffic control and detour maps attached.
Met with staff April 22nd to discuss event details as have done in previous years regarding use of City Streets and park area.

🔒 Fire Department Approval / Comments / Notes

Approved, no impact.

🔒 Park & Rec. Department Approval / Comments / Notes

Approved, needs for 2024 will be the same as they were in 2023. For the past 13 years, the Park & Rec as part of the City of Owatonna, has been listed as a major sponsor of the Festival and fees waived. Committee requests City Park & Rec partner with Festival and waive approximate \$3,000 in costs.

Police Department Approval / Comments / Notes

Approved. Staffing and budget impact at this point in time is not known.

Public Works Department Approval / Comments / Notes

Approved, will deliver cones as in previous years.

Building & Inspection

Approved, no impact.

Date to Council

— May 21, Consent Agenda Item.

Council Notes

Items Needed

Attachments

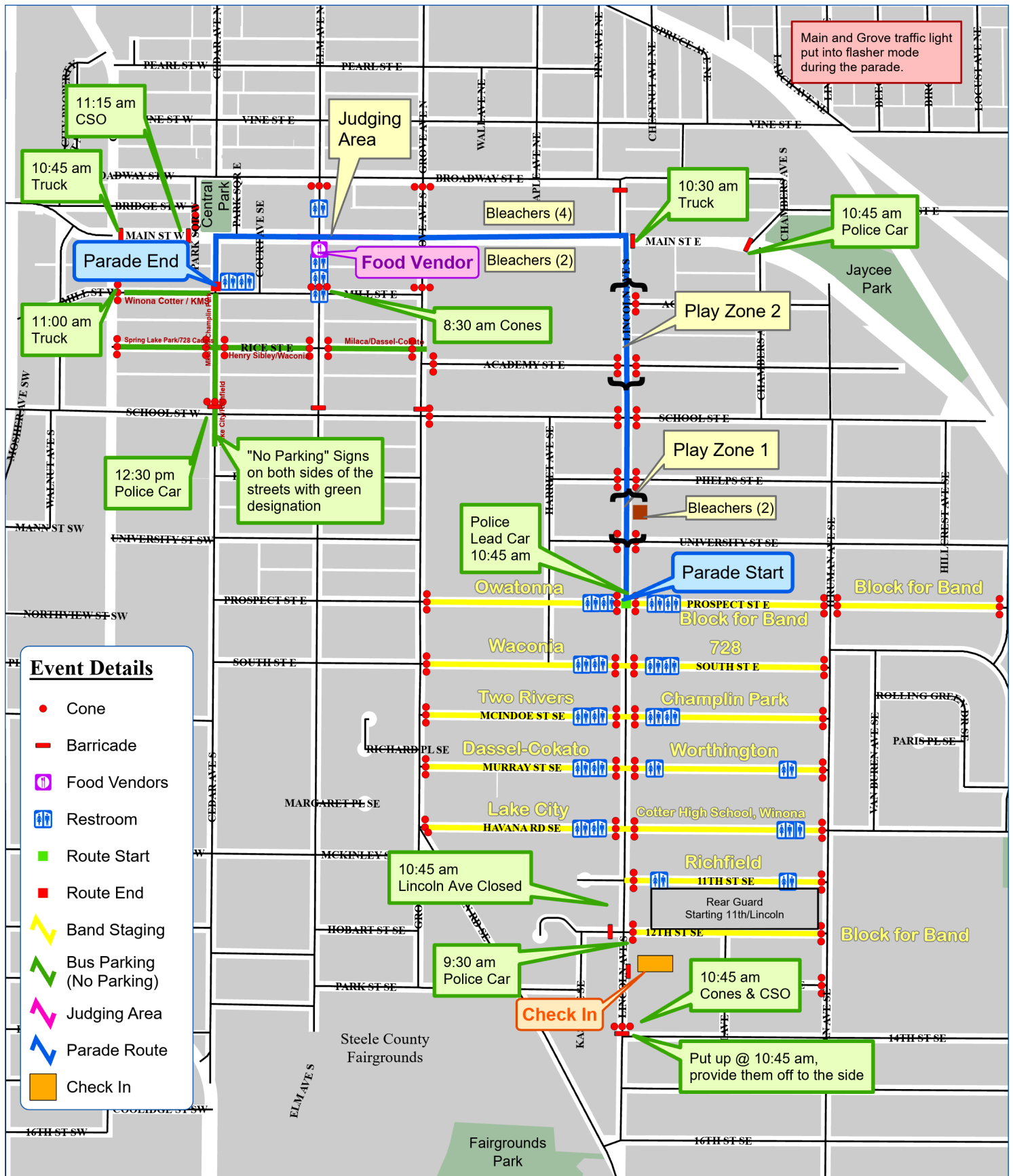
- **Site Plan**

REQUIRED

harry_wenger_marching_band_festival - SPM.pdf
Uploaded by Leslea Partridge on Jan 8, 2024 at 7:04 PM
- **harry_wenger_marching_band_festival_-_2022_-_DETOUR_Handout - SPM.pdf**

harry_wenger_marching_band_festival_-_2022_-_DETOUR_Handout - SPM.pdf
Uploaded by Leslea Partridge on Jan 8, 2024 at 7:05 PM
- **2024 DETOUR Handout.pdf**

2024 DETOUR Handout.pdf
Uploaded by Jeanette Clawson on Apr 22, 2024 at 11:31 AM





EP-24-19

Events Permit Application

Status: Active

Submitted On: 4/12/2024

Primary Location

No location

Applicant

 Mike Conrad

 507-213-8159

 mike40944@yahoo.com

 424 12th Street SE
Owatonna, MN 55060-4010

Event Information

Event Name

Field Day

Event Contact*

Mike Conrad

Location of Event*

McKinley School 1050 22nd Street NE Owatonna

Description of Event*

Amateur Radio National "Field Day" Event

Event Set Up Date

06/21/2024

Event Set Up Time*

5pm

Actual Event Date*

06/23/2024

Actual Event Time*

8am - Midnight

Clean Up Date*

06/24/2024

Clean Up Time ?

1pm-4pm

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

Postponed

Reschedule Date

06/22/2024

Estimated Attendance* ?

50

Application Information

Sponsoring Organization Name*

Owatonna Steele County Amateur Radio Club

Mailing Address*

424 12th St SE

City*

Owatonna

State*

Minnesota

Zip*

55060

Website Address*

www.oscarmn.org

Primary Contact

Name*

Mike Conrad

Phone Number*

507-213-8159

Cell Phone

507-213-8159

Email Address*

mike40944@yahoo.com

Primary On-site Contact

Name*

Mike Conrad

Cell Phone*

507-213-8159

Alternate On-site Contact

Name*

Dale Carlson

Cell Phone*

507-363-1083

Refer Media or Citizen Inquiries To:

Name*

Mike Conrad

Phone*

507-213-8159

Event Features

City Streets or Right-of-Way*

No

Alleys*

No

City Sidewalks or Trails*

No

Public Parking Lots or Spaces*

No

Parks*

No

Will any signs/banners be put up?*

Yes

Number and Size*

2 4 x 6

Will there be any inflatables?*

No

Will there be entertainment?*

No

Will sound amplification be used?*

No

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

Yes

Dimensions*

Canopy 10x20, canopy 10x10

Fees may apply. No staking without approval.

Will there be temporary fencing?* ?

No

Will merchandise/food items be sold?*

No

Will food be prepared on site?*

Yes

Will alcohol be sold?*

No

Will this event require a Temporary Liquor Permit?*

No

Will there be a fireworks display?*

No

Describe power needs and location of power source*

Generators for power

Describe level of advertisement* ?

Press release to newspapers, radio. & tv

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

No

Will the event need cones?*

No

Size Needed*

Small

Will Central Park Stage be used?*

No

Will there be any horses?*

No

Describe trash removal and cleanup plan during and after event*

Will have multiple trashcans will remove all trash when we are done

Will event need traffic control?*

No

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

antenna area will be off limits to guests and visitors

Will "No Parking" signs be needed?*

No

Will event need security?*

No

Will event need Emergency Medical Services?*

No

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

Many of our participants are also Skywarn members
In case of lightning we will disconnect the feed lines from the antennas
rain will not effect us

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

Name*

Phone Number*

Mike Conrad

507-213-8159

Email*

mike40944@yahoo.com

List any other pertinent information

Refer to question about Cancel or Postpone We will continue event
regardless of weather
Also question below barrricade needed answered NO program request size
needed

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

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*

✓ Michael Dale Conrad
Apr 12, 2024

Internal Use

🔒 Special Provisions

Saturday, June 22nd - OSCAR Field Day at McKinley School. No specific request but advising of event as is overnight. Setup begins Friday afternoon, event on Saturday ending at noon on Sunday. Cleanup done between 1-4. Event all on school property, do set up several campers in the parking lot area for event. Food prepared onsite is for participants, no sale of food items.

🔒 Fire Department Approval / Comments / Notes

Approved. No comment.

🔒 Park & Rec. Department Approval / Comments / Notes

Approved. No P&R Impact.

Police Department Approval / Comments / Notes

Approved , no impact.

Public Works Department Approval / Comments / Notes

Approved Nothing from streets is required

Building & Inspection

Approved. No comment.

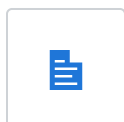
Date to Council

— May 21st Consent Agenda Item.

Council Notes

Items Needed

Attachments



Site Plan

Field Day site plan.pdf

Uploaded by Mike Conrad on Apr 12, 2024 at 12:39 PM

REQUIRED

EP-24-16

Events Permit Application

Status: Active

Submitted On: 4/10/2024

Primary Location

No location

Applicant



Yari Cuellar



507-213-1589



yaricuellar@icloud.com



149 west bridge street

Owatonna, Minnesota

55060

Event Information

Event Name

Just One More Street Dance

Event Contact*

Yari Cuellar

Location of Event*

149 west bridge street
Owatonna, Mn 55060

Description of Event*

Street Dance

Event Set Up Date

07/12/2024

Event Set Up Time*

9am to 3pm

Actual Event Date*

07/12/2024

Actual Event Time*

4pm to 12am

Clean Up Date*

07/13/2024

Clean Up Time ?

1am to 4am

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

Canceled

Estimated Attendance* ?

500

Application Information

Sponsoring Organization Name*

Just One More Bar

Mailing Address*

149 west bridge street

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

N/A

Primary Contact

Name*

Yari Cuellar

Phone Number*

5072131589

Cell Phone

Email Address*

yaricuellar@icloud.com

Primary On-site Contact

Name*

Yari Cuellar

Cell Phone*

5072131589

Alternate On-site Contact

Name*

Cesar Marin

Cell Phone*

5073693160

Refer Media or Citizen Inquiries To:

Name*

Cesar Marin

Phone*

5073693160

Event Features

City Streets or Right-of-Way*

Yes

Start/End Time*

9am-4am

Date*

07/12/2024

Name of Requested Street(s)*

149 west bridge street

Alleys*

No

City Sidewalks or Trails*

Yes

Start/End Time*

9am-4am

Date*

07/12/2024

Public Parking Lots or Spaces*

Yes

Start/End Time*

9am-4am

Date*

07/12/2024

Parks*

No

Will any signs/banners be put up?*

Yes

Number and Size*

Size varies

Will there be any inflatables?*

No

Will there be entertainment?*

Yes

What Type*

Live music

Will sound amplification be used?*

Yes

Type*

Speakers and mic

Hours*

8am-midnight

Will sound be amplified after 10:00pm?*

Yes

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?*

Dimensions*

Yes

20x30

Fees may apply. No staking without approval.

Will there be temporary fencing?* 

Dimensions*

Yes

100ft

Will merchandise/food items be sold?*

How many vendors expected?*

Yes

2

Will food be prepared on site?*

Will alcohol be sold?*

No

Yes

Who will be providing the liquor license?*

Is this a caterer with an alcohol endorsement on their license?*

Just one more bar

No

A Temporary Liquor License will be required. Complete an application for a Temporary Liquor License.

Will this event require a Temporary Liquor Permit?*

Yes

Additional documentation and fees are required

Will there be a fireworks display?*

No

Describe power needs and location of power source*

Just one more bar

Describe level of advertisement* ?

Signs and word of mouth

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

Yes

Number Needed

0

Size Needed*

Small

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?*

No

Size Needed*

Small

Will Central Park Stage be used?*

No

Will there be any horses?*

No

Describe trash removal and cleanup plan during and after event*

Hiring staff clean up

Will event need traffic control?*

No

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

Door count/security

Will "No Parking" signs be needed?*

No

Will event need security?*

Yes

Will event need Emergency Medical Services?*

No

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

Cancel event

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

Name*

Yari Cuellar

Phone Number*

5072131589

Email*

yaricuellar@icloud.com

List any other pertinent information

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

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*

✓ Yari Abigail Cuellar
Apr 10, 2024

Internal Use

🔒 Special Provisions

Just One More Street Dance - Friday, July 12th. Block off west of the 100 block of W Bridge Street as in previous years. Set up begins at 9 am, with band playing from 8 pm to midnight. Request use of barricades and cones to block street as in the past Will need an Exception to the City's Noise Ordinance and Extension of Premises for the Liquor License, fee will be \$200.

🔒 Fire Department Approval / Comments / Notes

Approved, no comment.

Park & Rec. Department Approval / Comments / Notes

No P&R impact. Approved.

Police Department Approval / Comments / Notes

Approve, OPD request pre-payment for contractual services of \$1500.00 made to City of Owatonna by July 19, 2024. Balance of contractual OT services will be invoiced following the event. Applicant must meet with Captain Sorensen/Sgt DuChene to establish a contractual OT agreement for law enforcement coverage no later than June 1, 2024. Last year confusion, there was also a live band in Central Park that had some overlap during the Just One More Street dance.

Public Works Department Approval / Comments / Notes

Please call 507-456-5028 3 days prior to event to schedule pickup of cones and barricade's.
Approved

Building & Inspection

Two three-foot clear openings are to be provided for exiting as shown on the site map.

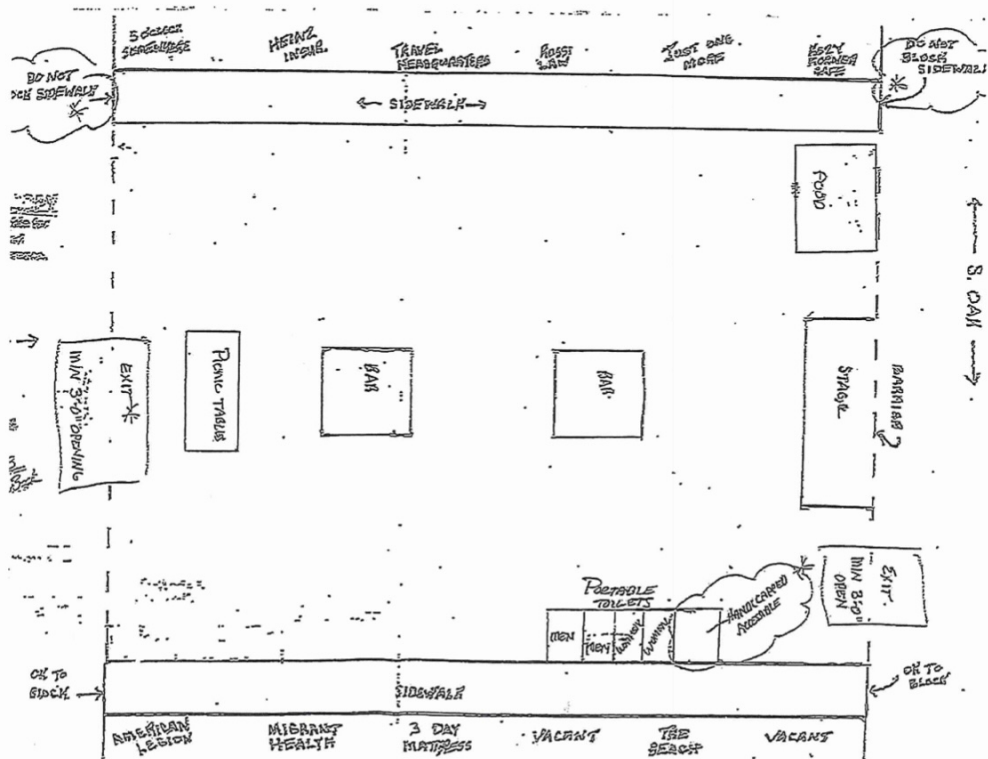
Date to Council

— May 21st Consent Agenda Item.

Council Notes

Items Needed

Attachments



EP-24-26**Events Permit Application**

Status: Active

Submitted On: 5/13/2024

Primary Location

No location

Applicant Cheryl Gesell 218-201-9597 cgesell123@gmail.com 550 22nd St NE
Owatonna, MN 55060

Event Information**Event Name**

Elks 1395 Family Picnic

Event Contact*

Cheryl Gesell

Location of Event*

Elks Lodge 1395

Description of Event* ?

Block off City Public Parking Lodge next to Elks Lodge and use that space for a Elks Family Picnic. Set up grill outside side door to grill burgers & brats. Set up some tables for families, and lawn games for members & children.

Event Set Up Date

07/15/2024

Event Set Up Time* ?

12:00 noon

Actual Event Date*

07/15/2024

Actual Event Time* ?

3:00 pm

Clean Up Date*

07/15/2024

Clean Up Time ?

9:30pm

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

Postponed

Reschedule Date

07/22/2024

Estimated Attendance* ?

40

Application Information

Sponsoring Organization Name*

Elks Lodge 1395

Mailing Address*

PO Box 881

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

elks1395@hotmail.com

Primary Contact

Name*

Cheryl Gesell`

Phone Number*

507-451-1395

Cell Phone

218-209-9597

Email Address*

cgesell123@gmail.com

Primary On-site Contact

Name*

Cherl Gesell

Cell Phone*

218-209-9597

Alternate On-site Contact

Name*

Chris Ohnstad

Cell Phone*

507-456-0393

Refer Media or Citizen Inquiries To:

Name*

Cheryl Gesell

Phone*

218-209-9597

Event Features

City Streets or Right-of-Way*

No

Alleys*

No

City Sidewalks or Trails*

Yes

Start/End Time*

12:00pm/9:30pm

Date*

07/15/2024

Public Parking Lots or Spaces*

Yes

Start/End Time*

3:00noon/9:30

Date*

07/15/2024

Parks*

No

Will any signs/banners be put up?*

No

Will there be any inflatables?*

No

Will there be entertainment?*

No

Will sound amplification be used?*

No

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

No

Will there be temporary fencing?* ?

No

Will merchandise/food items be sold?*

No

Will food be prepared on site?*

Yes

Will alcohol be sold?*

No

Will this event require a Temporary Liquor Permit?*

No

Will there be a fireworks display?*

No

Describe power needs and location of power source*

N/A

Describe level of advertisement* ?

Elks newsletter, flyers in our Lodge

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

No

Will the event need cones?*

Yes

Number Needed*

10

Size Needed*

Medium

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?*

No

Will there be any horses?*

No

Describe trash removal and cleanup plan during and after event*

All trash will be cleaned up that evening, tables & grill removed.

Will event need traffic control?*

No

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

N/A

Will "No Parking" signs be needed?*

No

Will event need security?*

No

Will event need Emergency Medical Services?*

No

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

We will go in building

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

Name*

Cheryl Gesell

Phone Number*

218-209-9597

Email*

cgesell123@gmail.com

List any other pertinent information

This should be a low key event, children will be present all day

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

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*

✓ Cheryl Ann Gesell
May 13, 2024

Internal Use

🔒 Special Provisions

Elk's Family Picnic - Saturday, July 13th. Request use of the city's parking lot to the west of their building on Vine St (only the east lot of the city's two lots so lot behind Roma's & OTB will not be blocked off) and 10 cones to block traffic from entering this parking lot. Set up begin at noon and cleared by 9:30 pm. Jeanette called to discuss Temporary Liquor License with Cheryl Gesell, Temporary Liquor License would allow liquor outdoors in this area, she will follow-up with application, payment of \$50 fee and Cert of Insurance showing this additional activity.

🔒 Fire Department Approval / Comments / Notes

Approved, no impact on Fire.

🔒 Park & Rec. Department Approval / Comments / Notes

No P&R impact, approve

Police Department Approval / Comments / Notes

Approved, no impact to OPD.

Public Works Department Approval / Comments / Notes

Approved , please call 507-456-5028 to pickup cones

Building & Inspection

Approved, no comment.

Date to Council

— May 21st City Council Meeting - Consent Agenda Item.

Council Notes

Items Needed

Attachments

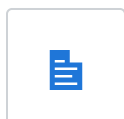


Site Plan

IMG_1867.jpg

Uploaded by Cheryl Gesell on May 13, 2024 at 2:19 PM

REQUIRED



Elks and City Parking Lots on E Vine St.pdf

Elks and City Parking Lots on E Vine St.pdf

Uploaded by Jeanette Clawson on May 13, 2024 at 3:14 PM

ROMAS

OTB

Vine Street

TABLE

10

(Games)

10

City Public Parking Lot

TABLE

TABLE

GRILL

Front door

Backdoor

ELKS LODGE

EP-24-15

Events Permit Application

Status: Active

Submitted On: 4/10/2024

Primary Location

No location

Applicant Derek Skala 507-213-9086 derek_skala@yahoo.com 8001 SE 14th Ave
Owatonna, MN 55060

Event Information**Event Name**

Reggie's Parking lot Dance

Event Contact*

Derek Skala

Location of Event*

Parking lot on West side of Reggie's Brewhouse

Description of Event* ?

Parking lot closed for bean bag tournament, serving bevarages and bands.

Event Set Up Date

08/03/2024

Event Set Up Time* ?

8:00am

Actual Event Date*

08/03/2024

Actual Event Time* ?

12:00PM

Clean Up Date*

08/04/2024

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

Canceled

Estimated Attendance* ?

700

Application Information

Sponsoring Organization Name*

Reggie's Brewhouse

Mailing Address*

220 N Cedar Ave

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

<https://www.facebook.com/events/d41d8cd9/reggies-brewhouse-owatonna>

Primary Contact

Name*

Derek Skala

Phone Number*

507-213-9086

Cell Phone

Email Address*

derek_skala@yahoo.com

Primary On-site Contact

Name*

Derek Skala

Cell Phone*

507-213-9086

Alternate On-site Contact

Name*

Kayla Skala

Cell Phone*

651-238-6048

Refer Media or Citizen Inquiries To:

Name*

Derek Skala

Phone*

507-213-9086

Event Features

City Streets or Right-of-Way*

No

Alleys*

Yes

Start/End Time*

8:00am/3:00am

Date*

08/03/2024

Name of Requested Alley(s)*

Alley between Reggies and Parking lot
on West side

City Sidewalks or Trails*

No

Public Parking Lots or Spaces*

Yes

Start/End Time*

8:00am/3:00am

Date*

08/03/2024

Parks*

No

Will any signs/banners be put up?*

Yes

Number and Size*

2 - Large

Will there be any inflatables?*

No

Will there be entertainment?*

Yes

What Type*

Band on stage

Will sound amplification be used?*

Yes

Type*

Large speakers for band

Hours*

2:00pm - 12:00am

Will sound be amplified after 10:00pm?*

Yes

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?*

Yes

Dimensions*

30x10

Fees may apply. No staking without approval.

Will there be temporary fencing?* 

Yes

Dimensions*

Orange snow fencing 4' high

Will merchandise/food items be sold?*

Yes

How many vendors expected?*

1

Will food be prepared on site?*

Yes

Will alcohol be sold?*

Yes

Who will be providing the liquor license?*

Ronnies Sports Bar LLC DBA Reggies
BRewhouse

Is this a caterer with an alcohol endorsement on their license?*

No

A Temporary Liquor License will be required. Complete an application for a Temporary Liquor License.

Will this event require a Temporary Liquor Permit?*

No

Additional documentation and fees are required

Will there be a fireworks display?*

No

Describe power needs and location of power source*

Power needed for Band, Lights, and speakers.

Describe level of advertisement* ?

Radio, Facebook, and flyers

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

Yes

Number Needed

4

Size Needed*

Large

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*

20

Size Needed*

Medium

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?*

No

Will there be any horses?*

No

Describe trash removal and cleanup plan during and after event*

Current trash company - schedule next day pick up

Will event need traffic control?*

No

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

Reggies security and police security

Will "No Parking" signs be needed?*

Yes

Number Needed*

4

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

Will event need security?*

Yes

Will event need Emergency Medical Services?*

No

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

Reggies Basement

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

Name*

Derek Skala

Phone Number*

507-213-9086

Email*

derek_skala@yahoo.com

List any other pertinent information

I dont recall all the cones and baracades used last year. My estimates could be off on that. very similar to next year but would like to have a day band play before the night band shows up.

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

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*

✓ Derek Skala
Apr 10, 2024

Internal Use

🔒 Special Provisions

Reggie's Brewhouse - Bean Bag Tournament & Parking Lot Dance on August 3rd. Request use of parking lot west behind their building in the 200 block of N Cedar Ave. Start setup at 8 am for bag tournament, then band to play until midnight. Request 4 barricades and 20 cones to block traffic from area. Will need Exception to the City's Noise Ordinance and Extension of Premises for Liquor license, fees will be \$200.

Fire Department Approval / Comments / Notes

Ensure emergency exits as specified by Buildings & Inspections. Also, ensure inside occupancy is not exceeded.

Park & Rec. Department Approval / Comments / Notes

Fencing and tent must be supported by concrete or sand bags, no staking into pavement. Otherwise, no P&R impact. Approve.

Police Department Approval / Comments / Notes

Event requires contracted law enforcement coverage. Cost neutral - OT coverage is paid by Applicant. Must meet with Captain Sorensen/SGT DuChene to establish agreement.

Public Works Department Approval / Comments / Notes

Please call 507-456-5028 2 days in advance for delivery of barricades/cones

Building & Inspection

Two three-foot clear openings without obstructions within the perimeter of the event for exiting is required

Date to Council

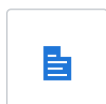
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Council Consent Agenda - May 21, 2024

Council Notes

Items Needed

Attachments

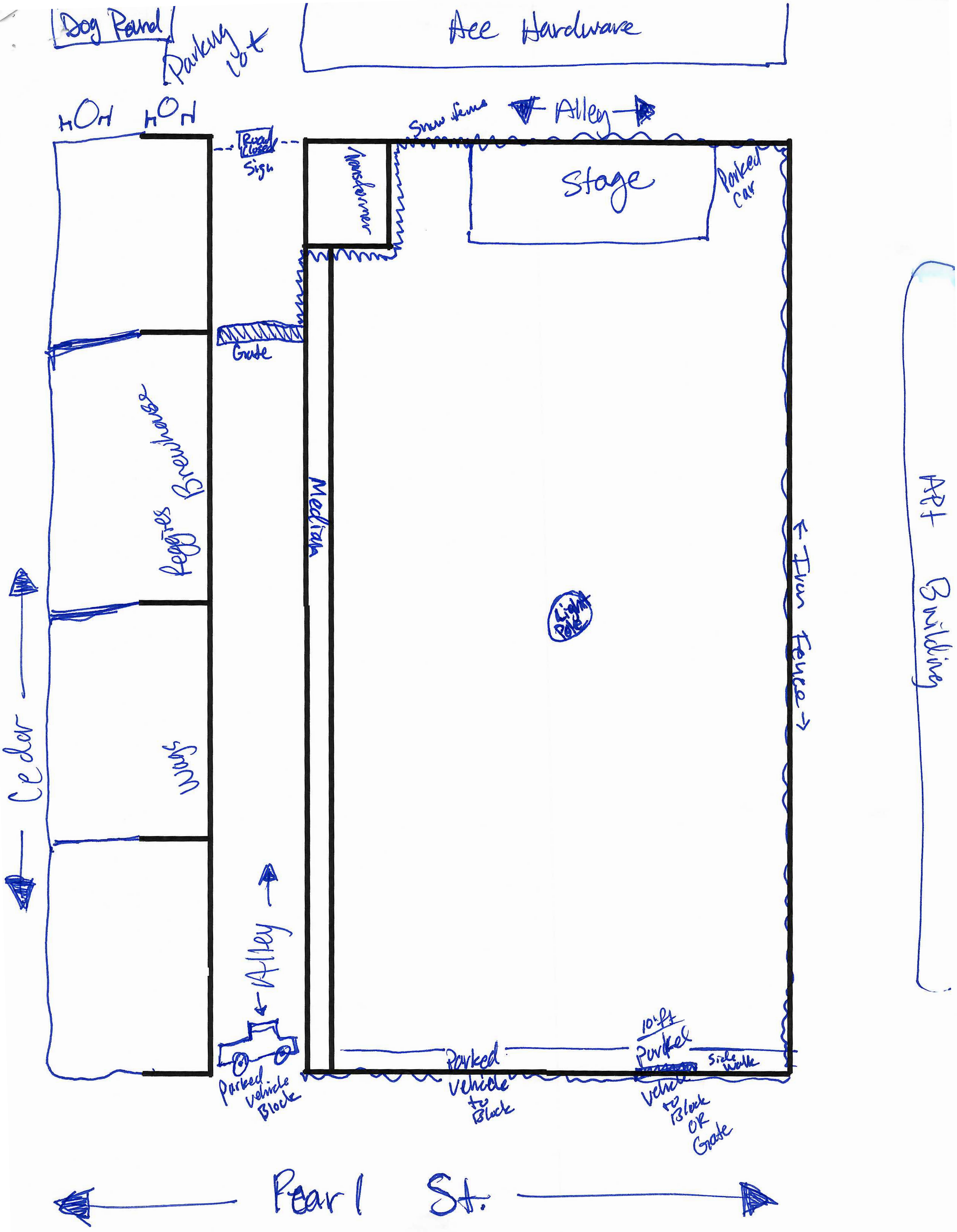


Site Plan

Scan_20240410.pdf

Uploaded by Derek Skala on Apr 10, 2024 at 2:28 PM

REQUIRED



APT Building

EP-24-21**Events Permit Application**

Status: Active

Submitted On: 4/26/2024

Primary Location

No location

Applicant

Brandon Flores



507-363-1569



@ hafmemorial@outlook.com



1749 sw 48th st

Owatonna, MN 55060

Event Information**Event Name**

4th annual HAF Memorial Event

Event Contact*

Brandon Flores

Location of Event*

Ye Olde Beer Gardens - Steele County Fairgrounds

Description of Event* ?

Fundraising for veterans

Event Set Up Date

09/13/2024

Event Set Up Time* ?

6pm

Actual Event Date*

09/14/2024

Actual Event Time* ?

7am

Clean Up Date*

09/14/2024

Clean Up Time ?

6pm

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

Canceled

Estimated Attendance* ?

500

Application Information

Sponsoring Organization Name*

Hunter Alexander Frank Memorial Foundation

Mailing Address*

1749 SW 48th St

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

hafmemorial.org

Primary Contact

Name*

Brandon Flores

Phone Number*

5073631569

Cell Phone

Email Address*

hafmemorial@outlook.com

Primary On-site Contact

Name*

Brandon Flores

Cell Phone*

5073631569

Alternate On-site Contact

Name*

Margaret Flores

Cell Phone*

5078372022

Refer Media or Citizen Inquiries To:

Name*

Brandon Flores

Phone*

5073631569

Event Features

City Streets or Right-of-Way*

No

Alleys*

Yes

Start/End Time*

7am-7pm

Date*

09/14/2024

Name of Requested Alley(s)*

Side street @ beer gardens (south side)

City Sidewalks or Trails*

No

Public Parking Lots or Spaces*

No

Parks*

No

Will any signs/banners be put up?*

Yes

Number and Size*

Around 20 estimated, they will be hung on the fence and anywhere between 3x4 to 3x8 banners of local sponsors

Will there be any inflatables?*

No

Will there be entertainment?*

Yes

What Type*

Live band

Will sound amplification be used?*

Yes

Type*

Music

Hours*

4

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?*

3

Will food be prepared on site?*

Yes

Will alcohol be sold?*

Yes

Who will be providing the liquor license?*

Knights of Columbus

Is this a caterer with an alcohol endorsement on their license?*

Yes

Will this event require a Temporary Liquor Permit?*

No

Additional documentation and fees are required

Will there be a fireworks display?*

No

Describe power needs and location of power source*

Power provided in beer garden rental

Describe level of advertisement* ?

Mid range, radio, news, online, and billboard

Have adjacent property owners been notified of this event?*

Yes

Signatures required.

Will the event need barricade(s)?

Yes

Number Needed

20

Size Needed*

Small

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?*

Number Needed*

Yes

20

Size Needed*

Medium

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?*

Will there be any horses?*

No

No

Describe trash removal and cleanup plan during and after event*

Local company sponsored trash clean up and removal

Will event need traffic control?*

No

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

There will be an adequate amount of staff around the event all day guiding parking and assisting where needed

Will "No Parking" signs be needed?*

No

Will event need security?*

No

Will event need Emergency Medical Services?*

No

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

Seek shelter inside building

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

Name*

Brandon Flores

Phone Number*

5073631569

Email*

hafmemorial@outlook.com

List any other pertinent information

This will be our second year hosting at this location

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

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*

✓ Brandon Paul Flores
Apr 26, 2024

Internal Use

🔒 Special Provisions

Hunter Frank Memorial Event - Saturday, Sept 13 at SCFF in the Beer Gardens, car show and bike ride from 7am - 7 pm. Plan for bikes to leave SCFF at 8:30 am and return at 12:30 pm, request police escort for riders. Also request 20 cones and barricades to block area on grassy area for car show. There will be music from 12-4 in the Beer Garden, KC Hall will file for a temporary liquor permit.

🔒 Fire Department Approval / Comments / Notes

No impact.

 Park & Rec. Department Approval / Comments / Notes

No impact.

 Police Department Approval / Comments / Notes

No additional staffing needed, approved.

 Public Works Department Approval / Comments / Notes

No impact.

 Building & Inspection

No impact.

 Date to Council

— May 21st Consent Agenda Item.

 Council Notes

 Items Needed

Attachments

S Cedar Ave

S Cedar Ave

1581

Great Outdoors Center

Food vendors

Live music and bar

Ye Olde Beer Garden

Parking/car show/motorcycle line-up



EP-24-11

Events Permit Application

Status: Active

Submitted On: 3/21/2024

Primary Location

No location

Applicant

 Jennifer Thiele 507-451-1420

jennifer.thiele@steelehistorymuseum.org

 1700 Austin Rd

Owatonna, MN 55060

Event Information

Event Contact*

Anne Peterson

Orphanage Museum Fall Celebration

Saturday , September 21st from noon to 4:00 pm

Use of West Hills Campus

Location of Event*

West Hills Campus

Description of Event* 

Orphanage Museum Fall Celebration

Event Set Up Date

09/21/2024

Event Set Up Time* 

10:00 am

Actual Event Date*

09/21/2024

Actual Event Time* 

12:00 pm

Clean Up Date*

09/21/2024

Clean Up Time 

4:00 pm

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

Canceled

Estimated Attendance* 

250

Is this event a dance?*

No

Application Information

Sponsoring Organization Name*

Steele County Historical Society

Mailing Address*

1700 Austin Rd., Owatonna, 55060

City*

Owatonna

State*

MN

Zip*

55060

Website Address*

www.schsmn.org

Primary Contact

Name*

Jennifer C. Thiele

Phone Number*

507-451-1420

Cell Phone

541-206-1067

Email Address*

jennifer.thiele@steelehistorymuseum.org

Primary On-site Contact

Name*

Anne Peterson

Cell Phone*

507-475-2546

Alternate On-site Contact

Name*

Tom Bonacci

Cell Phone*

507-213-3386

Refer Media or Citizen Inquiries To:

Name*

Jennifer C. Thiele

Phone*

507-451-1420

Event Features

City Streets or Right-of-Way*

Yes

Start/End Time*

09/21/2024

Date*

09/21/2024

Name of Requested Street(s)*

W. Hills Circle, Grandview Ave, Dunnell
Dr, Ronglein Ln, Florence Ave, State Ave.

Alleys*

No

City Sidewalks or Trails*

Yes

Start/End Time*

09/21/2024

Date*

09/21/2024

Public Parking Lots or Spaces*

Yes

Start/End Time*

09/21/2024

Date*

09/21/2024

Parks*

No

Will any signs/banners be put up?*

Yes

Number and Size*

One 4' x 8' event banner on the hill near the Administration building.

Will there be any inflatables?*

No

Will there be entertainment?*

No

Will sound amplification be used?*

No

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

No

Will there be temporary fencing?* 

No

Will merchandise/food items be sold?*

No

Will food be prepared on site?*

No

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*

SCHS will not require any exterior power sources from the City of Owatonna.

Describe level of advertisement* 

The event will be advertised on the radio, newspaper, tv stations, social media and on our websites.

Have adjacent property owners been notified of this event?*

No

Will the event need barricade(s)?

No

Will the event need cones?*

No

Size Needed*

Small

Will Central Park Stage be used?*

No

Will there be any horses?*

Yes

Number Animals Anticipating*

2

How will horses be used?*

Horses will be used to pull a passenger wagon around the West Hills Complex. Guides on the wagon will describe the history of the property. The wagon will also stop at various locations on the grounds and reenactors will provide guests additional information about the former State Public School.

Please provide insurance information and complete Hold Harmless Agreement

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

 Jennifer C. Thiele
Mar 21, 2024

Describe trash removal and cleanup plan during and after event*

SCHS staff and volunteers will clean up and removal and garbage created by the event and dispose of any garbage in dumpsters.

Will event need traffic control?*

No

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

SCHS and the horse owners will bring in our own cones to set up a barricade to protect visitors and the horses from passing vehicles on the West Hills campus. Volunteers will be stationed throughout the event to ensure guests stay on the sidewalks or grass.

Will "No Parking" signs be needed?*

No

Will event need security?*

No

Will event need Emergency Medical Services?*

No

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

All outdoor activities will be moved into the Orphanage Museum, Cottage 11 and the Owatonna Arts Center.

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

Name*

Jennifer C. Thiele

Phone Number*

541-206-1067

Email*

jennifer.thiele@steelehistorymuseum.org

List any other pertinent information

SCHS would like to provide guests tours of the newly completed Crandall Center. We would also like to be notified if construction on Merrill Hall will impact our routes for the horse-drawn wagon rides.

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

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*

✓ Jennifer C. Thiele
Mar 21, 2024

🔒 Special Provisions

Set up begins at 10:00 am., will be two horse / wagon rides to tour former State Public School grounds, rides start near the Arts Center's entrance, goes west on Ronglein Lane, north on Florence Avenue to State Ave, south on State Ave to return to the West Hills Campus. Request use of grounds and will place large banner near Admin Building. Estimate 250 to attend.

🔒 Fire Department Approval / Comments / Notes

Approved with no comment made.

🔒 Park & Rec. Department Approval / Comments / Notes

Approved - Call for locates prior to staking banner on hill. A certificate of insurance is needed for the horses. All clean-up from horses must be done, and horses should remain on paved areas to avoid damage to grass.

🔒 Police Department Approval / Comments / Notes

Approved, no operational impact.

🔒 Public Works Department Approval / Comments / Notes

Approved, no additional comment.

🔒 Building & Inspection

Approved, no additional comment.

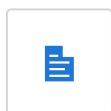
🔒 Date to Council

– **Add to Council Consent - April 2, 2024 Meeting.**

🔒 Council Notes

🔒 Items Needed

Attachments



Site Plan

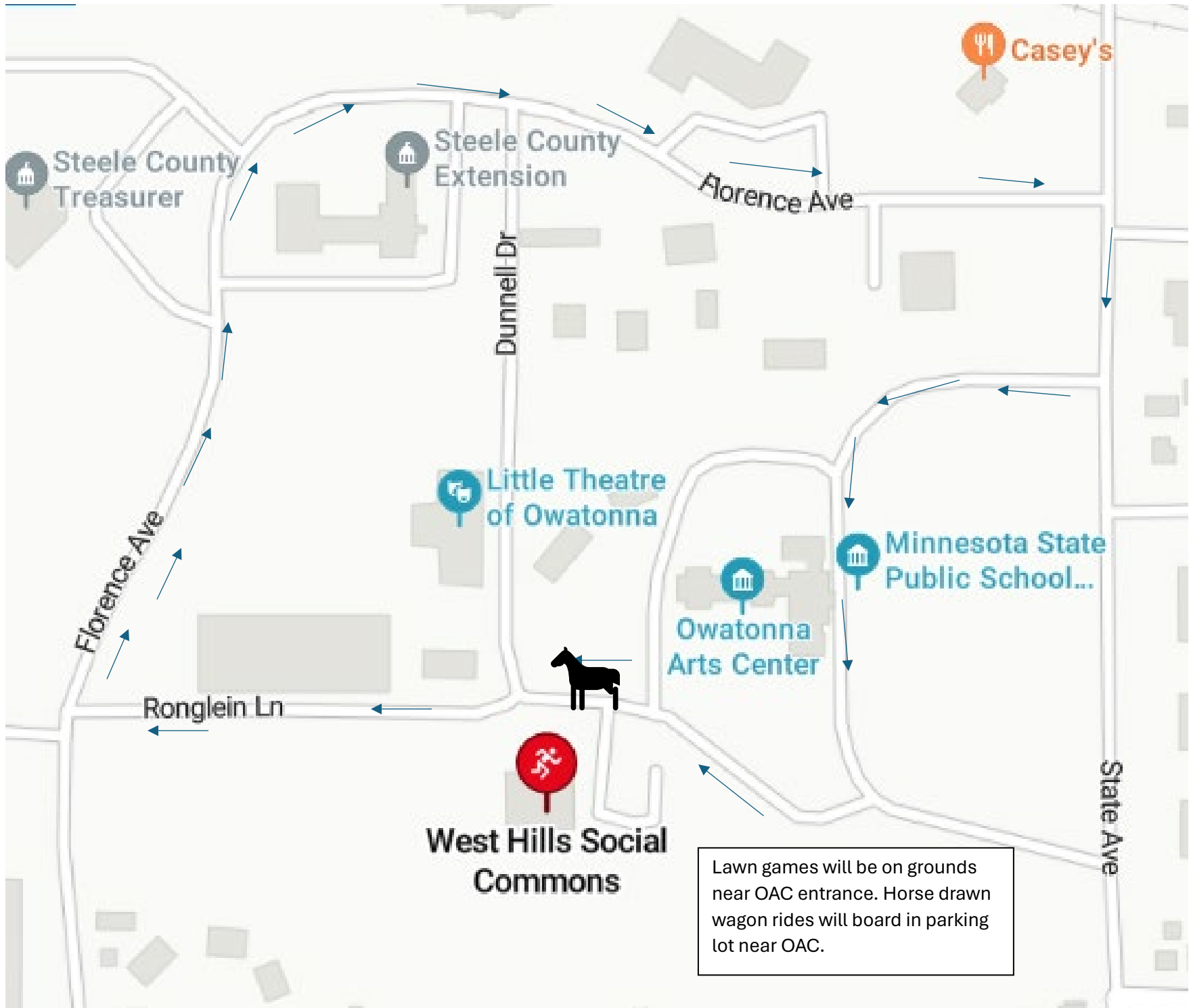
Fall Celebration Site Plan.docx

Uploaded by Jennifer Thiele on Mar 21, 2024 at 10:09 AM

REQUIRED

History

Date	Activity
3/21/2024, 9:17:29 AM	Jennifer Thiele started a draft of Record EP-24-11
3/21/2024, 10:09:51 AM	Jennifer Thiele submitted Record EP-24-11
3/21/2024, 10:09:52 AM	approval step Admin Review was assigned to Jeanette Clawson on Record EP-24-11



LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.

Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Owatonna Fire Relief Association Previous Gambling Permit Number: X- 74005
 Minnesota Tax ID Number, if any: 41-6032886 Federal Employer ID Number (FEIN), if any: _____
 Mailing Address: 107 W. Main St.
 City: Owatonna State: MN Zip: 55060 County: Steele
 Name of Chief Executive Officer (CEO): Justin Brown
 CEO Daytime Phone: 507-456-1787 CEO Email: justin.brown@ci.owatonna.mn.us
 (permit will be emailed to this email address unless otherwise indicated below)
 Email permit to (if other than the CEO): leila.kath@ci.owatonna.mn.us

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

☐ Fraternal ☐ Religious ☐ Veterans ☒ Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

- ☒ **A current calendar year Certificate of Good Standing**
 Don't have a copy? Obtain this certificate from:
 MN Secretary of State, Business Services Division
 60 Empire Drive, Suite 100
 St. Paul, MN 55103
 Secretary of State website, phone numbers:
www.sos.state.mn.us
 651-296-2803, or toll free 1-877-551-6767
- ☒ **IRS income tax exemption (501(c)) letter in your organization's name**
 Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.
- ☐ **IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)**
 If your organization falls under a parent organization, attach copies of both of the following:
 1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
 2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted
 (for raffles, list the site where the drawing will take place): Owatonna Country Club

Physical Address (do not use P.O. box): 1991 Lemond Rd.

Check one:

☒ City: Owatonna Zip: 55060 County: Steele
☐ Township: _____ Zip: _____ County: _____

Date(s) of activity (for raffles, indicate the date of the drawing): June 21st, 2024

Check each type of gambling activity that your organization will conduct:

☐ Bingo ☐ Paddlewheels ☐ Pull-Tabs ☐ Tipboards ☒ Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

**CITY APPROVAL
for a gambling premises
located within city limits**

- ☒ The application is acknowledged with no waiting period.
- ☐ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city).
- ☐ The application is denied.

Print City Name: Owatonna

Signature of City Personnel:

Jeanette Clauson

Title: Admin Coordinator Date: 5/14/2024

**The city or county must sign before
submitting application to the
Gambling Control Board.**

**COUNTY APPROVAL
for a gambling premises
located in a township**

- ☐ The application is acknowledged with no waiting period.
- ☐ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days.
- ☐ The application is denied.

Print County Name: _____

Signature of County Personnel: _____

Title: _____ Date: _____

TOWNSHIP (if required by the county)

On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)

Print Township Name: _____

Signature of Township Officer: _____

Title: _____ Date: _____

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: [Signature] Date: 5-6-2024
(Signature must be CEO's signature; designee may not sign)

Print Name: Justin Brown

REQUIREMENTS

Complete a separate application for:

- all gambling conducted on two or more consecutive days; or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:

A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the

application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-

ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

- _____ a copy of your proof of nonprofit status; and
- _____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
1711 West County Road B, Suite 300 South
Roseville, MN 55113

Questions?

Call the Licensing Section of the Gambling Control Board at 651-539-1900.

This form will be made available in alternative format (i.e. large print, braille) upon request.

An equal opportunity employer

LG220 Application for Exempt Permit

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

Applications are processed in the order received. If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**.

Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: St. Mary's Marian Catholic School

Previous Gambling Permit Number: X-74007

Minnesota Tax ID Number, if any: _____

Federal Employer ID Number (FEIN), if any: 41-0744379

Mailing Address: 730 South Cedar Ave.

City: Owatonna State: MN Zip: 55060 County: Steele

Name of Chief Executive Officer (CEO): Von Petersen

CEO Daytime Phone: 612-600-3290 CEO Email: vonpetersen@gmail.com

(permit will be emailed to this email address unless otherwise indicated below)

Email permit to (if other than the CEO): clembke@stmarys-owatonna.org

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

☐ Fraternal ☒ Religious ☐ Veterans ☐ Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

☐ **A current calendar year Certificate of Good Standing**

Don't have a copy? Obtain this certificate from:

MN Secretary of State, Business Services Division
60 Empire Drive, Suite 100
St. Paul, MN 55103

Secretary of State website, phone numbers:
www.sos.state.mn.us
651-296-2803, or toll free 1-877-551-6767

☐ **IRS income tax exemption (501(c)) letter in your organization's name**

Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.

☒ **IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)**

If your organization falls under a parent organization, attach copies of both of the following:

1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): Steele County Free Fair

Physical Address (do not use P.O. box): 1525 South Cedar Ave.

Check one:

☒ City: Owatonna Zip: 55060 County: Steele

☐ Township: _____ Zip: _____ County: _____

Date(s) of activity (for raffles, indicate the date of the drawing): August 13-15, 2024

Check each type of gambling activity that your organization will conduct:

☒ Bingo ☐ Paddlewheels ☐ Pull-Tabs ☐ Tipboards ☐ Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LG220 Application for Exempt Permit

4/23
Page 2 of 3

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

CITY APPROVAL for a gambling premises located within city limits

- ☒ The application is acknowledged with no waiting period.
- ☐ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city).
- ☐ The application is denied.

Print City Name: Owatonna

Signature of City Personnel:

Janette Clawson

Title: Admin Coordinator Date: 5/3/2024

**The city or county must sign before
submitting application to the
Gambling Control Board.**

COUNTY APPROVAL for a gambling premises located in a township

- ☐ The application is acknowledged with no waiting period.
- ☐ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days.
- ☐ The application is denied.

Print County Name: _____

Signature of County Personnel: _____

Title: _____ Date: _____

TOWNSHIP (if required by the county)

On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)

Print Township Name: _____

Signature of Township Officer: _____

Title: _____ Date: _____

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: _____ Date: _____
(Signature must be CEO's signature; designee may not sign)

Print Name: Von Petersen

REQUIREMENTS

Complete a separate application for:

- all gambling conducted on two or more consecutive days; or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:

A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the

application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-

ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

- _____ a copy of your proof of nonprofit status; and
- _____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
1711 West County Road B, Suite 300 South
Roseville, MN 55113

Questions?

Call the Licensing Section of the Gambling Control Board at 651-539-1900.

This form will be made available in alternative format (i.e. large print, braille) upon request.

An equal opportunity employer

MINNESOTA LAWFUL GAMBLING
LG220 Application for Exempt Permit

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Page 1 of 3

An exempt permit may be issued to a nonprofit organization that:

- conducts lawful gambling on five or fewer days, and
- awards less than \$50,000 in prizes during a calendar year.

If total raffle prize value for the calendar year will be \$1,500 or less, contact the Licensing Specialist assigned to your county by calling 651-539-1900.

Application Fee (non-refundable)

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Due to the high volume of exempt applications, payment of additional fees prior to 30 days before your event will not expedite service, nor are telephone requests for expedited service accepted.

ORGANIZATION INFORMATION

Organization Name: Sacred Heart Church

Previous Gambling Permit Number: X- 3331

Minnesota Tax ID Number, if any: _____

Federal Employer ID Number (FEIN), if any: _____

Mailing Address: 810 South Cedar Ave.

City: Owatonna State: MN Zip: 55060 County: Steele

Name of Chief Executive Officer (CEO): Msgr. Cook

CEO Daytime Phone: 507-451-1588 CEO Email: pastor@sacredheartowatonna.org

(permit will be emailed to this email address unless otherwise indicated below)

Email permit to (if other than the CEO): _____

NONPROFIT STATUS

Type of Nonprofit Organization (check one):

☐ Fraternal

☒ Religious

☐ Veterans

☐ Other Nonprofit Organization

Attach a copy of one of the following showing proof of nonprofit status:

(DO NOT attach a sales tax exempt status or federal employer ID number, as they are not proof of nonprofit status.)

☐ **A current calendar year Certificate of Good Standing**

Don't have a copy? Obtain this certificate from:
MN Secretary of State, Business Services Division
60 Empire Drive, Suite 100
St. Paul, MN 55103

Secretary of State website, phone numbers:
www.sos.state.mn.us
651-296-2803, or toll free 1-877-551-6767

☐ **IRS income tax exemption (501(c)) letter in your organization's name**

Don't have a copy? To obtain a copy of your federal income tax exempt letter, have an organization officer contact the IRS toll free at 1-877-829-5500.

☐ **IRS - Affiliate of national, statewide, or international parent nonprofit organization (charter)**

If your organization falls under a parent organization, attach copies of both of the following:

1. IRS letter showing your parent organization is a nonprofit 501(c) organization with a group ruling; and
2. the charter or letter from your parent organization recognizing your organization as a subordinate.

GAMBLING PREMISES INFORMATION

Name of premises where the gambling event will be conducted (for raffles, list the site where the drawing will take place): Steele County Free Fair

Physical Address (do not use P.O. box): 1525 South Cedar Ave.

Check one:

☒ City: Owatonna

Zip: 55060

County: Steele

☐ Township: _____

Zip: _____

County: _____

Date(s) of activity (for raffles, indicate the date of the drawing): August 16-18, 2024

Check each type of gambling activity that your organization will conduct:

☒ Bingo

☐ Paddlewheels

☐ Pull-Tabs

☐ Tipboards

☐ Raffle

Gambling equipment for bingo paper, bingo boards, raffle boards, paddlewheels, pull-tabs, and tipboards must be obtained from a distributor licensed by the Minnesota Gambling Control Board. EXCEPTION: Bingo hard cards and bingo ball selection devices may be borrowed from another organization authorized to conduct bingo. To find a licensed distributor, go to www.mn.gov/gcb and click on **Distributors** under the **List of Licensees** tab, or call 651-539-1900.

LG220 Application for Exempt Permit

4/23
Page 2 of 3

LOCAL UNIT OF GOVERNMENT ACKNOWLEDGMENT (required before submitting application to the Minnesota Gambling Control Board)

CITY APPROVAL for a gambling premises located within city limits

- ☒ The application is acknowledged with no waiting period.
- ☐ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days (60 days for a 1st class city).
- ☐ The application is denied.

Print City Name: Owatonna

Signature of City Personnel:

Title: Admin Coordinator Date: 5/3/2024

**The city or county must sign before
submitting application to the
Gambling Control Board.**

COUNTY APPROVAL for a gambling premises located in a township

- ☐ The application is acknowledged with no waiting period.
- ☐ The application is acknowledged with a 30-day waiting period, and allows the Board to issue a permit after 30 days.
- ☐ The application is denied.

Print County Name: _____

Signature of County Personnel: _____

Title: _____ Date: _____

TOWNSHIP (if required by the county)

On behalf of the township, I acknowledge that the organization is applying for exempted gambling activity within the township limits. (A township has no statutory authority to approve or deny an application, per Minn. Statutes, section 349.213.)

Print Township Name: _____

Signature of Township Officer: _____

Title: _____ Date: _____

CHIEF EXECUTIVE OFFICER'S SIGNATURE (required)

The information provided in this application is complete and accurate to the best of my knowledge. I acknowledge that the financial report will be completed and returned to the Board within 30 days of the event date.

Chief Executive Officer's Signature: _____ Date: _____
(Signature must be CEO's signature; designee may not sign)

Print Name: Msgr. Cook

REQUIREMENTS

Complete a separate application for:

- all gambling conducted on two or more consecutive days; or
- all gambling conducted on one day.

Only one application is required if one or more raffle drawings are conducted on the same day.

Financial report to be completed within 30 days after the gambling activity is done:

A financial report form will be mailed with your permit. Complete and return the financial report form to the Gambling Control Board.

Your organization must keep all exempt records and reports for 3-1/2 years (Minn. Statutes, section 349.166, subd. 2(f)).

MAIL APPLICATION AND ATTACHMENTS

Mail application with:

- _____ a copy of your proof of nonprofit status; and
- _____ application fee (non-refundable). If the application is postmarked or received 30 days or more before the event, the application fee is **\$100**; otherwise the fee is **\$150**. Make check payable to **State of Minnesota**.

To: Minnesota Gambling Control Board
1711 West County Road B, Suite 300 South
Roseville, MN 55113

Questions?

Call the Licensing Section of the Gambling Control Board at 651-539-1900.

Data privacy notice: The information requested on this form (and any attachments) will be used by the Gambling Control Board (Board) to determine your organization's qualifications to be involved in lawful gambling activities in Minnesota. Your organization has the right to refuse to supply the information; however, if your organization refuses to supply this information, the Board may not be able to determine your organization's qualifications and, as a consequence, may refuse to issue a permit. If your organization supplies the information requested, the Board will be able to process the

application. Your organization's name and address will be public information when received by the Board. All other information provided will be private data about your organization until the Board issues the permit. When the Board issues the permit, all information provided will become public. If the Board does not issue a permit, all information provided remains private, with the exception of your organization's name and address which will remain public. Private data about your organization are available to Board members, Board staff whose work requires access to the information; Minnesota's Depart-

ment of Public Safety; Attorney General; Commissioners of Administration, Minnesota Management & Budget, and Revenue; Legislative Auditor, national and international gambling regulatory agencies; anyone pursuant to court order; other individuals and agencies specifically authorized by state or federal law to have access to the information; individuals and agencies for which law or legal order authorizes a new use or sharing of information after this notice was given; and anyone with your written consent.

This form will be made available in alternative format (i.e. large print, braille) upon request.

An equal opportunity employer



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

Name of organization		Date of organization		Tax exempt number	
Mineral Springs Brewery		June 2018			
Organization Address (No PO Boxes)		City	State	Zip Code	
111 N Walnut Ave		Owatonna	MN	55060	
Name of person making application		Business phone		Home phone	
Bill Cronin		507-413-6281			
Date(s) of event		Type of organization ☐ Microdistillery ☒ Small Brewer			
September 19, 2024		☐ 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	
			MN		
Organization officer's name		City	State	Zip Code	
			MN		

Location where permit will be used. If an outdoor area, describe.

Mineral Springs Brewery (MSB) will be selling beer at the Federated Insurance Companies celebration at the Steele County Fairgrounds at 1525 S Cedar Avenue.

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 policy# ETD0503616; \$1,000,000 limit

APPROVAL

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

Owatonna	
City or County approving the license	Date Approved
\$50.00	9/19/2024
Fee Amount	Permit Date
Event in conjunction with a community festival ☐ Yes ☒ No	
27,544	City or County E-mail Address
Current population of city	

Please Print Name of City Clerk or County Official

Signature City Clerk or County Official

**CLERKS NOTICE: Submit this form to Alcohol and Gambling Enforcement Division 30 days prior to event
No Temp Applications faxed or mailed. Only emailed.**

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**



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

Name of organization		Date of organization		Tax exempt number	
Mineral Springs Brewery		June 2018			
Organization Address (No PO Boxes)		City	State	Zip Code	
111 N Walnut Ave		Owatonna	MN	55060	
Name of person making application		Business phone		Home phone	
Bill Cronin		507-413-6281			
Date(s) of event		Type of organization ☐ Microdistillery ☒ Small Brewer			
September 20 & 21, 2024		☐ 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	
			MN		
Organization officer's name		City	State	Zip Code	
			MN		

Location where permit will be used. If an outdoor area, describe.
Mineral Springs Brewery (MSB) hosting an OktoberFest celebration and will extend the liquor premises to the parking area in front of the brewery at 111 N Walnut Avenue.

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 policy# ETD0503616; \$1,000,000 limit

APPROVAL

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

Owatonna	
City or County approving the license	Date Approved
\$50.00	9/20/24 and 9/21/2024
Fee Amount	Permit Date
Event in conjunction with a community festival ☐ Yes ☒ No	
27,544	City or County E-mail Address
Current population of city	

Please Print Name of City Clerk or County Official

Signature City Clerk or County Official

CLERKS NOTICE: Submit this form to Alcohol and Gambling Enforcement Division 30 days prior to event
No Temp Applications faxed or mailed. Only emailed.
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



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jeanette Clawson, Administrative Coordinator
SUBJECT: Renew Ice Cream Vendor Permit - Sunny's Ice Cream, Albert Lea MN

Purpose:

Council to approve request to renew the Ice Cream Vendor License for Sunny's Ice Cream, Austin, MN.

Background:

Ice Cream Vendors Licenses are issued annually for the period beginning April 1 – March 31st the following year. This will be the eight year Sunny's Ice Cream has held an Ice Cream Vendor License. We have received the renewal application, payment of the annual fee, auto insurance and Vehicle Inspection Reports.

Budget Impact:

The annual license fee is \$100 for the first vehicle and \$50 for each additional vehicle. They operate one of two vehicles within the City and permit both, we have received payment of \$150.00.

Staff Recommendation:

Staff recommends Council approve this renewal application for Sunny's Ice Cream.

Attachments:

None



CITY OF
OWATONNA

Miscellaneous



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Eric Anderson, Recreation Manager
SUBJECT: Warsinski Chalet Independent Contractor Agreement - Martin Equipment, Inc.

Purpose:

Request City Council approval of the Morehouse Park and Warsinski Chalet winter operations agreement with Martin Equipment, Inc. for the 2024-2025 season. The independent contractor agreement includes the warming house and outdoor skating activities.

Background:

The winter outdoor ice-skating operation at Morehouse Park is open from December through March, as weather permits. The agreement includes the Morehouse Park operations of the Warsinski Chalet warming house, general outdoor activities and skating areas (ponds, dry-land rink and river).

The scope of the Martin Equipment, Inc. agreement includes all services required for the sale and rental of ice skating, cross-country skiing, and food concessions. This agreement will continue with Martin Equipment providing all the operations staff with the concessions, equipment rental, grounds and rink supervision. In prior agreements, the city provided rink attendants to supervise the outside activities. This change clearly defines the staff management for work direction, supervision, and scheduling of Martin Equipment, Inc.

The City received a letter on November 23, 2022, from North Risk Partners regarding the League of Minnesota Cities' position on the exposure of ice skating on the Straight River. Although the City is currently within coverage for this activity, the probability remains high that a future exclusion could be applied to river skating. The City's insurance policy was renewed through January 29, 2025, with no changes. If a future policy excludes river skating, the City will need to cease the activity to remain in good standing with the policy.

Staff will work with the Fire Department and follow established best practices protocols throughout the Winter Operations for the safety of staff, patrons and equipment.

Budget Impact:

Martin Equipment, Inc. retains all equipment rental and concessions sales revenues. It supplies rental equipment, concessions equipment, concessions supplies and staff to operate the equipment rental and concessions. Martin Equipment, Inc. is responsible for

supervising/monitoring the Morehouse Park warming house and skating areas.

The City will pay Martin Equipment, Inc. up to \$5,000 to provide these services, which is included in the Recreation budget. The agreement for the 2024-2025 season includes an adjustment for unseasonable warm weather. Martin Equipment, Inc. will be paid for open days instead of a-season flat amount of \$5000.

Staff Recommendation:

Staff recommends approving this agreement.

Attachments:

1. 2024-2025 Martin Equipment Agreement

WARSINSKI CHALET INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT made and entered into this 21 day of May, 2024 by and between the City of Owatonna, a municipal corporation, hereinafter referred to as City, and Martin Equipment, Inc. hereinafter referred to as Contractor.

WHEREAS, City owns and operates the Warsinski Chalet and Morehouse Park outdoor ice skating areas, (the “Facilities”), located within the City and deems it appropriate to have the following services performed at said Facilities: sale of cross country ski and skate related merchandise, rental of cross country ski equipment and rental of ice skates, the sale of food concessions, and oversight and supervision of the Facilities.

WHEREAS, Contractor desires to provide such services and owns equipment necessary to provide such services; and

WHEREAS, Contractor agrees to perform these services for the City under the terms and conditions set forth in this agreement;

NOW THEREFORE, in consideration of the foregoing and in consideration of the promises hereinafter set forth, City and Contractor mutually agree as follows:

CONTRACTOR RESPONSIBILITIES:

1. **Work Performed.** The work to be performed (the “Work”) by Contractor includes all services required in the sale and rental of ice skating and cross-country ski equipment and merchandise, and the sale of food concessions, and supervision and oversight of the Chalet and Morehouse outdoor ice-skating areas.
2. **Park and Recreation Department Contact.** Contractor shall report directly to the Recreation Manager of Parks and Recreation (“Recreation Manager”) or appointed designate.
3. **Supervision.** Contractor shall provide all supervision at the Facilities for the months of December 2024, January, February, and March 2025, and carry out and adhere to all policies and guidelines of the City.
4. **Contractor’s Staff.** Contractor shall be responsible in selecting staff as needed to perform the duties and provide the services for the Work as provided in Section 1. The Contractor shall instruct its staff how to safely perform the duties and services required to do the Work. The Contractor shall inform staff of all policies and guidelines provided by the City. Contractor shall obtain background checks on all staff applicants including employees or subcontractors and provide the completed background checks to the Recreation Manager. The cost of the

background checks will be borne by Contractor.

5. **Supervision and Delegation of Work.** Contractor shall supervise the execution of all Work, either personally or by a manager, approved in writing by the Recreation Manager before undertaking any Work.
6. **Public Relations.** Contractor shall assist the Recreation Manager or his/her appointed designee in marketing and promoting the Outdoor Skating Facility so as to increase usage.
7. **Support of Activities.** Contractor shall work with Park and Recreation Department staff on providing specialized programs for youth and adults during the contract period. All activities and programs shall be coordinated with the Park and Recreation Department staff.
8. **COVID-19 Compliance.** Contractor shall comply with and assist in the implementation of the City's COVID-19 Preparedness Plan including proper disinfection, sanitization, and monitoring compliance with the plan guidelines on site.
9. **Use of Facility.** Contractor is entitled to use the Warsinski Chalet Facility to carry out the terms of this agreement.
10. **Notification of Group Use.** Contractor shall inform the Recreation Manager of any scheduled Group Use reservations, at least 3 business days prior to the reservation, to allow for effective planning and performing any necessary maintenance or repair of the skating ice and facility.
11. **Contractor's Expenses.** Contractor shall furnish at its own expense, all inventory, labor, materials, equipment, licenses, and other items necessary to carry out the terms of this contract. Contractor shall inform the Recreation Manager of any items or service which is City's obligation to provide.
12. **Food Handlers License.** Contractor shall post at the Food Concession Area a current Food Handler's License issued by the State of Minnesota.

CITY'S RESPONSIBILITIES:

1. **Storage Space.** The City will provide the Contractor a storage location for equipment and supplies in the Warsinski Chalet Facility five days prior to and after the months of December and March.
2. **Exclusive Rights to Sale and Rental.** Contractor shall have exclusive rights in the sale and rental of cross-country ski and skate related merchandise and Food Concessions at the Warsinski Chalet Facility during the term of this contract.

3. **City Retains Authority.** The City retains the authority to make any decision to close the Facilities, or limit the hours to use the Facilities due to weather or for any other reason, at its sole discretion.
4. **Compensation:** For performing all of the Work and providing all of the supervision required in the Agreement, Contractor will be paid a fee of \$1500 for the first 1 to 14 days that the Morehouse outdoor skating rinks are open for use. For each additional 1 to 7 days the skating rinks are open for use, a \$1000 will be paid to the contractor, up to \$5000 for the outdoor skating season. If the Morehouse Park outdoor skating rinks do not open for operation, the Contractor shall receive no payment for service. Contractor shall be paid at the conclusion of the season with the City's scheduled check runs.

GENERAL CONDITIONS:

1. **Relationship.** The parties intend that the legal relationship between the City and the Contractor is a relationship between the City and an Independent Contractor. City is interested only in the results to be achieved. The conduct and control of the Work will lie solely with Contractor. Contractor shall at all times be free to exercise initiative, judgment and discretion as to how best to perform services identified herein. Contractor is not an agent or employee of the City for any purpose and the staff of Contractor (employees or subcontractors), are not entitled to any of the benefits that the City provides for its employees.
2. **Warsinski Chalet Facility Hours.** Contractor's hours of operation shall be the same as those hours of operation established by the Park and Recreation Department for the Warsinski Chalet facility.
3. **Revenue.** It is understood and agreed that all other fees established by the City of Owatonna Parks and Recreation Department belong to the City.
4. **Facility Control.** (a) The Work to be performed by Contractor is subject to the control of the Contractor. (b) The City otherwise retains control of Morehouse Park and Warsinski Chalet.
5. **Maintenance and Utilities.** City will provide maintenance and utilities for the Facility in accordance with its routine schedule and standards, including water and sewer, heat, air conditioning, electricity, trash disposal, hazardous waste disposal, and telephone service.
6. **Liability Insurance.** Contractor shall take out and maintain during the term of this agreement Commercial General Liability insurance coverage to protect the Contractor, its officers, employees, agents, members and anyone directly or indirectly engaged or employed by Contractor from any and all claims for damage

to property or for personal injury, including death, made by anyone, arising under this Agreement with the following limits of coverage:

- Commercial General Liability coverage with limits of not less than \$1 Million per occurrence and \$2 Million annual aggregate.

Said policy to be issued by a company authorized to do business in the State of Minnesota and, if mutual, shall be non-assessable. Contractor shall provide the City with a Certificate of Insurance naming the City as an additional insured.

Contractor agrees to provide Workers Compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota. Prior to providing services to the City pursuant to this Agreement, Contractor shall deliver to the City a certificate of insurance certifying that it has the above coverage in full force and effect.

7. **Indemnification.** The Contractor agrees to perform the Work and comply with all the conditions, regulations, and provisions set forth herein, and to defend, indemnify, and hold harmless the City, its officers, agents, or employees of and from all liability, claim, judgment, costs, damages and expenses of whatsoever kind which may in any way be suffered by the City or its officers, agents, or employees by reason of or in consequence of the operation of the Work herein provided for or account of any act or thing done or omitted to be done under the authority or supposed authority of Contractor under this Agreement. The Contractor's indemnification obligation shall also apply to the Contractor's subcontractors, or anyone directly or indirectly employed or hired by the Contractor, or anyone for whose acts the Contractor may be liable.
8. **Subrogation.** In accordance with the subrogation provisions of the standard property insurance contract, it is hereby understood and agreed by and between the undersigned parties that they do jointly and separately waive any or all right of recovery against the other insured loss occurring to the real property owned by City and personal property owned by Contractor all while located at the Warsinski Chalet Facility and Morehouse Park skating areas.
9. **Personal Property.** The Contractor agrees that all its own personal property upon the premises shall be kept at its own risk and the City shall not be liable for any damages thereto or for loss or theft thereof.
10. **Cancellation.** This agreement shall be subject to cancellation by the City in the event of the happening of any one or more of the following:
 - a. In the event the Contractor is adjudicated bankrupt, is in relationship, has made an assignment for the benefit of his creditors, or because Contractor's financial condition is unable to continue successful operations.
 - b. Failure of the Contractor to perform, keep, and observe any of the

conditions of the contract, and the failure of the Contractor to correct the default or breach within the times specified by the Recreation Manager.

c. Upon mutual consent of the city and contractor.

11. **Termination**. Upon termination of this agreement because of expiration of the term or upon termination for any other reason, the Contractor shall remove all personal property belonging to the Contractor and shall leave the premises in the condition in which they were received. In the event said personal property is not removed within thirty (30) days from expiration of this agreement or its termination for any other reason, the Contractor shall be deemed to have had abandoned the same to the City.
12. **Notice**. Any notice pursuant to this Agreement must be in writing and must be personally delivered, sent by email, or sent by certified mail, addressed to the parties at the addresses below or at such other address as they specify in written notice. Notices are effective upon personal delivery or when sent by e-mail or certified mail.

If to City: City of Owatonna Parks and Recreation
Attn: Recreation Manager
540 West Hills Circle
Owatonna, MN 55060

If to Contractor: Martin Equipment, Inc.
Attn: Al Martin
2523 County Rd 45 South
Owatonna, MN 55060

13. **Governing Law**. This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota, without reference to conflict of laws principles.
14. **Miscellaneous**
 - a. **Force Majeure**. Neither party will be deemed to be in default under this Agreement if it is prevented from performing its obligations hereunder for any reason beyond its control or is materially adversely affected in the performance of its obligations by acts of God, acts of civil or military authority, fires, floods or other natural disasters, strikes, governmental laws and regulations.
 - b. **Emergency Closure**. City may determine, at its sole discretion, that for reasons of health safety and in the best interests of the public it may close the facility as

necessary. Contractor would not be charged for use of the facility during this closure time.

- c. Discrimination. The Parties agree to be bound by applicable state and federal laws governing Equal Opportunity Employment and Non-discrimination.
- d. Amendment. This Agreement may be amended only upon mutual written agreement of the parties.
- e. Entire Agreement. This Agreement, together with its exhibits and attachments, constitutes the entire agreement between the parties with respect to the subject matter, and supersedes all prior agreements, understandings, promises, and representations made by either party to the other concerning the subject matter of this Agreement.
- f. Waiver. The failure of any party to insist on the performance of any provision of this Agreement and to exercise any rights hereunder will not be construed as a waiver of future performance of any such provision or the future exercise of such right.
- g. Severability. If a court of competent jurisdiction holds any provision of this Agreement invalid or unenforceable, the remaining provisions will nonetheless be enforceable. If such court determines that any provision of this Agreement is held to be overbroad as written, such provision will be deemed amended to narrow its application to the extent necessary to make the provision enforceable according to applicable law and will be enforced as amended.
- h. Costs, Expenses and Attorney's Fees. If either party incurs costs or expenses, in enforcing any of its rights under this Agreement, whether by litigation, arbitration, or otherwise, each party in such dispute will reimburse the prevailing party for its reasonable costs and expenses according to law. Each party will bear the cost of its own attorney fees according to the American Rule.
- i. No Third Party Beneficiaries. Nothing in this Agreement will create any obligations by City or Contractor or Licensee to any person or entity not a party to this Agreement, including Contractor's employees, volunteers or participants, or any other individuals employed by or under contract with City or Contractor.

15. **Term**. This contract shall expire on March 31, 2025.

[Remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

CITY OF OWATONNA

By _____
Thomas A. Kuntz
Its: Mayor

Date _____

By _____
Kris Busse
Its: City Administrator

Date _____

MARTIN EQUIPMENT, INC.

By _____
Allan M. Martin
Its: President

Date 5/10/24



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Eric Anderson, Recreation Manager
SUBJECT: Independent Contractor Agreement - Lacey's at Brooktree

Purpose:

Seek the Council's approval for revisions to the Independent Contractor Agreement for food and beverage services at Brooktree Golf Course with Lacey's at Brooktree LLC.

Background:

Initially approved by the City Council on July 18, 2023, this agreement is a 41-month food and beverage lease with Lacey's at Brooktree LLC, ending after the 2026 golf season.

The City signed a mid-season golf lease with Lacey to replace the previous contractor.

Acknowledging the need for Lacey's to start operating quickly and understanding that they would offer a limited menu for the rest of the season, the City waived lease payments for the remainder of the 2023 golf season. With the conclusion of the golf season in November 2023, the Lacey operation ceased its activities for a planned clubhouse improvement and planned to reopen in March 2024. The improvements included kitchen and pro-shop projects. The renovations to the clubhouse took longer than expected and were completed in March 2024.

The original agreement has been revised to account for the delayed opening of Lacey's food and beverage kitchen due to the extended renovation timeline. Several updates have been included in the revised agreement.

- Updated hours of operations.
- Updated lease rent payment date to begin on May 1, 2024.
- Clarify the real estate tax amount owed by the lessee.
- Added language to the Contractor's responsibilities: cleaning and janitorial services Article.
- Language in Technology Services.
- Language on the responsibility of dishwasher and glass washer leases.
- Language on the responsibility for hood and drain trap cleaning services.

Budget Impact:

With the change in lease payment beginning in May 2024, rental revenue will be reduced by

\$2,000 for the Brooktree Golf 2024 budget. With the shift in dishwasher and glass washer lease for January and February 2024, the rent/lease expenses for the Brooktree Golf 2024 budget will be increased by \$575.74.

Lacey's monthly rent:

- 2024 \$1,000 (Starting May 1, 2024)
- 2025 \$1,200
- 2026 \$1,300

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Lacey's Brooktree Independant Contractor Agreement - Revised

INDEPENDENT CONTRACTOR AGREEMENT

THIS LEASE AGREEMENT, is made this 21 day of May, 2024, by and between the City of Owatonna, a municipal corporation organized under the laws of the State of Minnesota, located at 540 West Hills Circle, Owatonna, Minnesota 55060, hereinafter referred to as “City” and Hwagg Hospitality, LLC, a Minnesota Limited Liability Company, DBA Lacey’s at Brooktree 1369 Cherry St. Owatonna, Minnesota 55060, hereinafter referred to as “Independent Contractor” or “Contractor”.

RECITALS

1. City is owner of the Brooktree Municipal Golf Course and the Brooktree Clubhouse building and restaurant, bar and grill located there.
2. The City desires to maintain the quality of its operations and to offer to the public a public restaurant service.
3. Contractor desires to undertake and perform the restaurant and food and beverage service for the Brooktree Golf Course.

IN CONSIDERATION of the foregoing and of the mutual promises and covenants hereinafter provided, the City and Contractor agree as follows:

ARTICLE 1 – OPERATION AND MANAGEMENT SERVICES

- 1.01** Contractor agrees to provide professional staff for the management of the food and beverage services at the Brooktree Golf Course.
- 1.02** Contractor shall provide trained staff to effectively manage and operate the food and beverage service.
- 1.03** Contractor shall provide coordinated services between the food and beverage services and the golf operations.
- 1.04** Contractor shall provide coordinated services within the community to promote the Brooktree restaurant.

ARTICLE 2 – GRANT OF LEASE

- 2.01** City hereby demises and leases the Premises to Contractor and Contractor hereby leases and accepts the Premises from City, to have and to hold during the Term, subject to the terms and conditions of this Lease.
- 2.02** City shall warrant and defend Contractor in the quiet enjoyment and possession of the Premises during the Term, subject to the terms and conditions of this Lease.

- 2.03** City covenants to observe and perform all of the terms and conditions to be observed and performed by City under this Lease. Contractor covenants to pay the Rent when due under this Lease and to observe and perform all the terms and conditions to be observed and performed by Contractor under this Lease.
- 2.04** “Premises” is defined as the Brooktree Restaurant at 1369 Cherry Street, Owatonna, Minnesota, including kitchen, front counter, dining room, patio, and restaurant storage areas in the building. Contractor shall have non-exclusive use of Common Areas such as entrances, hallways, restrooms, etc. which are shared with the Brooktree golf operation.

ARTICLE 3 – TERM AND POSSESSION

- 3.01 Term.** The Term of this Lease shall be forty-one (41) months beginning on July 20, 2023 and terminating on December 1, 2026. Notwithstanding the term of this Lease either party may cancel this Lease after the first year by giving written notice to the other party of the notice of intention to cancel the agreement by November 15th of the current year.

ARTICLE 4 – PERSONAL PROPERTY

- 4.01 Ownership.** City is the owner of kitchen fixtures and equipment, tables, chairs, patio furniture and other personal property and fixtures, all as listed in Appendix “A”. All of the property described in Appendix “A” shall remain at the Premises for Contractor’s use and is leased to Contractor during the Term of this Lease. This property shall be maintained in a good condition and kept in good repair by the Contractor as is reasonably necessary to maintain the individual inventory. All repair costs shall be paid for by the City as provided in Sections 7.05 and 7.06. Contractor shall, at its own expense, provide all other personal property required to operate a catering operation, bar, and grill.
- 4.02 Telephone.** Contractor will provide its own telephone line.
- 4.03 Point of sale system.** Contractor will provide its own dedicated internet line for its own point of sale system.
- 4.04 Wi-Fi.** Service will be available for Contractor’s use consistent with the purposes of this Lease.

ARTICLE 5 – USE OF PREMISES

- 5.01 Use.** The Premises shall be used and occupied as a bar, restaurant, grill, banquet facility, and catering business open to the public or for such any other purpose as

City and Contractor authorize. Contractor agrees to operate and maintain the Premises in a professional manner.

5.02 Operation. Contractor shall operate the bar and grill year-round.

5.03 Hours of Operation. Contractor shall have the option as to how early or late to be open for business, except that without written authority from the City, Contractor shall be open for business a minimum of the following schedule:

Golf Course Season - Seven days a week, including Holidays:

March	9:00 a.m. - 8:00 p.m.
April	9:00 a.m. - 8:00 p.m.
May	8:00 a.m. - 9:00 p.m.
June	7:00 a.m. - 9:30 p.m.
July	7:00 a.m. - 9:30 p.m.
August	7:00 a.m. - 9:30 p.m.
September	9:00 a.m. - 8:00 p.m.
October	9:00 a.m. - 7:00 p.m.

Exceptions: On Saturdays and other days when tournaments or other special events are scheduled, Contractor shall open earlier to meet the needs of the events.

Off-Season (November - February) – Friday through Sunday, Holidays optional

5.04 Liquor. Contractor shall apply for and maintain, at Contractor's expense, an on-sale intoxicating liquor license for the Premises and the golf course area Brooktree Golf Course, 1369 Cherry Street. Contractor shall further maintain dram shop insurance as required by Section Minn. Stat. sec. 340A.409 and section 9.02 of this Agreement.

5.05 Winter Months. During the winter months, from November 1 through March 31, the booking and scheduling of events shall be the responsibility of the Contractor. At any event scheduled during the winter months, Contractor, or its duly authorized representative, shall be in attendance, save and except for events sponsored solely by the city of Owatonna; and in such event the City of Owatonna shall be responsible for the maintenance and cleaning of the premises. For scheduled city events, the City will reserve the right to utilize the facility at no charge, with a 30-day notice to the Contractor.

5.06 Catering. The primary purpose of this Agreement is to provide quality food and beverage service for the golfing community. The contractor may cater non golf related events, for example private parties, wedding receptions, business meetings,

etc. Contractor may retain proceeds from the sale of food and beverages. Catered events may be scheduled during the golf season provided that quality food and beverage service shall continue to be available to meet the needs of the golfers during such events.

- 5.07 Compliance with Laws.** The Premises shall be used and occupied in a safe, careful and proper manner, and subject to all Federal and State laws and regulations and City ordinances, regulations, orders, or the requirements of the City’s insurance carriers.
- 5.08 Abandonment.** Contractor shall not vacate or abandon the Premises or cease to operate the banquet facilities, bar, grill or catering operation at any time during the Term without the City’s written consent.
- 5.09 Nuisance.** Contractor shall not cause or maintain any nuisance in or about the Premises and shall keep the Premises free of debris, rodents, vermin, insects and anything of a dangerous, noxious or offensive nature or which would create a fire hazard (through undue load on electrical circuits or otherwise) or undue vibration, heat or noise. City shall contract with a vendor engaged in the business of pest control and shall periodically, on an as needed basis, cause said vendor to perform services at, in or around the building upon which the demised premises are located.
- 5.10 Restaurant Equipment.** Contractor will have the use of all kitchen equipment presently on site. Contractor shall provide any additional equipment at Contractor’s expense.
- 5.11 Vending Machines.** Contractor, may with the written permission of the City, install food, candy or beverage vending machines within the Building or any such places at, Brooktree Golf Course, as may be approved by City; and, if any such vending machines are installed, same shall be maintained by Contractor and Contractor shall keep same in a good and orderly condition and any sales therefrom shall be included in “Gross Sales”. Contractor will maintain three vending machines on-course in accordance with City’s contract terms with Pepsi Cola.

ARTICLE 6 – RENT

- 6.01 Rent.** The annual rent for use of the premises shall be as follows:

Year 2024: 5/1/24-12/31/24	\$1000 monthly
Year 2025: 1/1/25-12/31/25	\$1200 monthly
Year 2026: 1/1/26-12/01/26	\$1300 monthly

The rent shall be paid by the 1st of each month.

- 6.02 Payment of Rent – General.** All amounts payable by Contractor to City under this Lease shall be deemed to be Rent and shall be payable and recoverable as Rent in the manner herein provided, and City shall have all rights against Contractor for

default in any such payment as in the case of arrears of Rent. Rent shall be paid to City without deduction or set-off at the address of City as set forth in the beginning of this Lease, or to such other person or at such other address as City may from time to time designate in writing. Contractor's obligation to pay Rent shall survive the expiration or earlier termination of this Lease.

6.03 Real Estate Tax. Contractor shall be responsible to pay the real estate tax attributable to the leased premises as determined by the Steele County Assessor. Property Tax Statements are available on the Steele County website for review.

A. Square Footage

1. Brooktree Clubhouse Total Square Footage = 4000 square feet
2. Contractor Leased Square Footage = 1716 square feet (43 percent of total square feet)

B. Payment shall be paid on May 15 and October 15 each year. The Real Estate Tax amount shall be as follows:

	May 15	October 15
Year 2023:	NA	0 months
Year 2024:	3 months	6 months
Year 2025:	6 months	6 months
Year 2026:	6 months	6 months

**ARTICLE 7 – SERVICES, MAINTENANCE, REPAIR
AND ALTERATIONS BY CITY**

7.01 Operation of Building. During the Term of this Lease, City shall operate and maintain the Building in accordance with all applicable laws and regulations and the requirements of City's Insurance carriers.

7.02 Services to Premises. City shall provide (and Contractor shall contribute to the payment of expenses as provided in Section 7.06 in the Premises):

1. Heat, ventilation and cooling as required for the comfortable use and occupancy of the Premises during normal business hours.
2. Electric power.
3. Domestic running water.
4. Maintenance, repair and replacement as set out in Section 8.05.
5. One on-course beverage cart.

7.03 Building Services. City shall provide in and around the building:

1. Access to and egress from the Premises.
2. Heat, ventilation, cooling, lighting, electric power, domestic running water and janitor service in those areas of the Building required by Contractor for access to the Premises during normal business hours of Contractor, but under the exclusive control of City.
3. Sidewalk and parking lot maintenance and snow removal and maintenance of the exterior of the Building. Provided, however, that sidewalk cleaning

and snow removal shall be provided by City only during regular City of Owatonna business hours.

4. Maintenance, repair and replacement as set out in Section 7.06.
5. Walk off rugs, with the number provided and location placed to be determined by facility staff.

7.04 Sidewalk and Parking Lot Maintenance and Maintenance of the Exterior of the Building. During the winter time, City shall remove snow from at least 80 parking stalls in the parking lot within 24 hours after commencement of snow removal operations subsequent to a snowfall; and remove snow from the sidewalks within 48 hours of commencing snow removal operations subsequent to a snowfall.

7.05 Maintenance, Repair and Replacement by City. Except as provided in Section 7.06, City shall operate, maintain, repair and replace the building systems, facilities and equipment necessary for the proper operation of the Building and for the provision of City's services under Section 7.02 and 7.03 and shall be responsible for and shall expeditiously maintain and repair the foundations, structure and roof of the Building, concealed plumbing, electrical, gas and sewer lines, provided that City shall have a reasonable time in which to complete the necessary repair or replacement and that City shall use reasonable diligence in carrying out its obligations but shall not be liable under any circumstances for any consequential damage to any person or property for any failure to do so.

Section 7.05 shall be construed as an eviction of Contractor except as otherwise specifically provided in this Lease, or release Contractor from any obligation of Contractor under this Lease. This Section is subject to the provisions of this Lease pertaining to damage by fire or other casualty.

7.06 Maintenance and Repair of Furniture, Fixtures and Equipment by Contractor; Operating Expenses; Cleaning Services; Sidewalks. Contractor shall:

1. Maintain all equipment, furnishings and trade fixtures used on the Premises in a good, clean and sanitary condition; and any repairs required to be made to any of those items shall be made by Contractor. The cost of minor repairs shall be paid by Contractor. Repairs exceeding \$2,000 shall be paid by City but no such repairs shall be made unless prior approval therefor is given by City. Repairs to be paid for by City are contemplated to be the larger repair items which are necessary for the Contractor to conduct its business on the Premises; and, the minor day-to-day repairs are to be made and paid for by Contractor. If any appliance or fixture listed on Appendix 'A', (for example, a refrigerator), breaks down and requires repairs in an amount more than the cost of replacement or otherwise outlives its useful life, the City will replace the same.
2. Provide janitor and cleaning services as reasonably required to keep the Leased Premises in a clean and wholesome condition and in compliance

with all applicable license requirements and regulations. Equipment and spaces included are (but not inclusive to):

- a. Daily cleaning and mopping of the kitchen and bar area floors.
 - b. Daily cleaning of kitchen equipment, such as grill, flat top, and fryers, to preserve the equipment lifespan.
 - c. Weekly removal and cleaning of the kitchen hood vents.
3. Provide such sidewalk cleaning of snow removal as may be necessary during hours in which cleaning and snow removal are not provided by the City pursuant to Section. 7.03 if the Contractor elects to open the facility.
 4. City shall be responsible for the cleaning of both the interior and exterior window surfaces, as well as the restroom facilities.

7.07 Alterations by City. City may from time to time:

1. Make repairs, replacements, changes or additions to the structure, system and facilities in the Premises where necessary to serve the Premises or other parts of the buildings.
2. Make changes in or additions to any part of the Building not included in the Premises.

7.08 Right of Entry. Contractor shall permit Lessor, its agents, and other employees, to have access to and to enter the demised premises at all reasonable and necessary times to inspect the demised premises for any purpose connected with the repair, improvement, care and management of the demised premises and the building in which the demised premises are situated, or for any other purpose reasonably connected with Lessor's interest in the demised premises.

1. City shall provide the Contractor a Card Access Security Badge for each of its employees to gain access into leased and common spaces.

7.09 Technology Services. Contractor shall provide its own Internet Service, Phone Service and Point of Sale Operations. Contractor may utilize the City's Cart GPS Technology for the Food and Beverage module for an assigned fee.

7.10 Dishwasher and Glasswasher leases. Contractor is responsible for the Dishwasher and Glasswasher leases. The City shall be responsible for these lease payments for services in November 2023 through February 2024 during the kitchen renovation.

**ARTICLE 8 – MAINTENANCE, REPAIR AND ALTERATIONS
OF CONTRACTOR, IMPROVEMENTS BY CONTRACTOR**

8.01 Conditions of Premises. Except to the extent that City is specifically responsible therefor under this Lease, Contractor shall maintain the Premises and all improvements therein in good order and condition, including:

1. Making repairs and maintenance of the leased premises shall be the obligation of Contractor including the replacement of any windows damaged or broken by Contractor, its agents, employees or business invitees. If Contractor fails to perform these obligations, then on thirty (30) days' notice to Contractor, City may enter the Premises and perform such obligation without liability to Contractor for any loss or damage to Contractor and Contractor shall pay City for the cost thereof within ten (10) days of receipt of City's invoice therefore.
2. Contractor shall be responsible for the semi-annual hood cleaning and semi-annual kitchen drain and drain tape cleaning service fees. The City shall arrange for this cleaning and bill the Contractor accordingly.

8.02 Alterations by Contractor. Contractor may from time to time at its own expense make changes, additions and improvements in the Premises to better adapt the same to its business, provided that any such change, addition or improvement shall:

1. Comply with the requirements of any governmental authority and with the requirements of City's insurance carriers.
2. Be made only with the prior written consent of City.
3. Be carried out only by persons selected by Contractor and approved in writing by City under terms and conditions reasonably required by City.

8.03 Trade Fixtures and Personal Property. Contractor may install on the Premises its usual trade fixtures and personal property in a proper manner, providing that no such installation shall interfere with or damage the mechanical or electrical systems or the structure of the building. If Contractor is not then in default hereunder, trade fixtures and personal property installed on the Premises by Contractor may be removed from the Premises from time to time in the ordinary course of Contractor's business or alteration of the Premises by Contractor, and during a reasonable period prior to the expiration of the Term, provided that Contractor promptly repairs at its own expense any damage to the Premises or Building resulting from such installation or removal. (Repairs of any of the fixtures or personal property as set forth in this Section 8.03 shall be at Contractor's expense).

8.04 Mechanic's Liens. Contractor shall pay before delinquency occurs all costs for work done or caused to be done by Contractor to the Premises which could result in a lien or encumbrance on City's interest in the land or Building or any part thereof, and shall keep the title to the land or Building and every part thereof, and shall keep the title to the land or Building and every part thereof free and clear of any lien or encumbrance in respect of such work, and shall indemnify and hold harmless City against any claim, loss, costs, demand in legal or other expense arising out of the supply of material, services or labor for such work.

8.05 Signs. All exterior and interior Contractor signs and fixtures must be approved by City.

ARTICLE 9 – INSURANCE

- 9.01 City's Insurance.** During the Term, City shall maintain boiler and machinery insurance, comprehensive general liability and fire insurance with extended coverage on the Building. City shall also provide business personal property insurance for personal property at the Premises owned by City.

Policies for such insurance shall waive any right of subrogation against Contractor and all individuals and entities to whom Contractor is responsible in law.

- 9.02 Contractor's Insurance.** During the Term, Contractor shall maintain, at its own expense, comprehensive general liability insurance for Contractor's business in an amount of not less than \$1 Million combined single limit together with umbrella coverage of not less than \$1 Million combined single limit. Contractor shall also maintain automobile liability insurance with limits not less than \$1 Million combined single limit. Contractor shall also maintain worker's compensation insurance covering its employees and business personal property insurance for personal property owned by Contractor in accordance with Minnesota Law. Contractor shall also maintain, at its own expense, liquor liability insurance in an amount not less than \$500,000.00 combined single limit. Contractor shall cause City to be named as an additional insured on all policies.

The Contractor must also provide workers' compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota. The Contractor shall provide Employer's Liability Insurance with minimum limits as follows: \$500,000-bodily injury by disease per employee, \$500,000-bodily injury by disease aggregate, \$500,000 –bodily injury by accident.

All such policies shall name the City as an additional insured.

Policies for such insurance shall be in a form and with an insurer reasonably acceptable to City and shall require at least thirty (30) days written notice to City of termination or material alteration during the Term and shall waive any right of subrogation against City and all individuals and entities to whom City is responsible in law. Contractor shall deliver on the commencement of the Term and on each anniversary thereof to City copies of such policies or certificates of coverage.

ARTICLE 10 – ASSIGNMENT AND SUBLETTING

- 10.01 Assignment and Subletting.** Contractor shall not sublet the bar and restaurant area at the clubhouse without the City's prior written consent and at City's sole discretion.

ARTICLE 11 – SURRENDER

- 11.01 Possession.** Upon the expiration or other termination of the Term, Contractor shall immediately quit and surrender possession of the Premises in substantially the condition in which Contractor is required to maintain the Premises excepting only reasonable wear and tear and shall thoroughly clean the walls and floors. Upon such surrender, all right, title, and interest of the Contractor in the Premises shall cease.
- 11.02 Trade, Fixtures, Personal Property and Improvements.** Subject to Contractor's rights under Section 8.03, after the expiration or other termination of the Term, all of Contractor's trade fixtures, personal property, and improvements remaining in the Premises shall be deemed conclusively to have been abandoned by the Contractor and may be appropriated, sold, destroyed, or otherwise disposed of by City without notice or obligation to compensate Contractor or to account therefor, and Contractor shall pay to City on written demand all costs incurred by City in connection therewith.

ARTICLE 12 – HOLDING OVER

- 12.01 Tenancy of Sufferance.** If without City's written consent Contractor remains in possession of the Premises after the expiration or other termination of the Term, Contractor shall be deemed to be occupying the Premises upon a tenancy at sufferance only, at a monthly Rent equal to 1.5 times the Rent determined in accordance with Article 5. Such tenancy at sufferance may be terminated by City at any time by notice of termination to Contractor and by Contractor on the last day of any calendar month by at least thirty (30) days advance written notice of termination to City.

ARTICLE 13 – DAMAGE BY FIRE OR OTHER CASUALTY

- 13.01 Limited Damage to Premises.** If all or part of the Premises are rendered unusable by damage from fire or other casualty which, in the reasonable opinion of an architect selected by City and approved by Contractor, can be substantially repaired under applicable laws and governmental regulations within 120 days from the date of such casualty (employing normal construction methods without overtime or other premium), City shall forthwith at its own expense repair such damage including damage to equipment, furniture, trade fixtures and other chattels owned by City, but excluding damage to improvements, furniture, chattels or trade fixtures owned by Contractor, which shall be repaired forthwith by Contractor at its own expense.
- 13.02 Major Damage to Premises.** If all or part of the Premises are rendered unusable by damage from fire or to other casualty which, in the reasonable opinion of an architect acceptable to the City and Contractor, cannot be substantially repaired under applicable laws and government regulations within 120 days from the date of such casualty (employing normal construction methods without overtime or other premium), then either City or Contractor may elect to terminate this Lease as of the date of such casualty by written notice delivered to the other not more than ten (10) days after receipt of such architect's opinion, failing which City shall forthwith at its

own expense repair such damage other than damage to improvements, furniture chattels or trade fixtures, which shall be repaired forthwith by Contractor at its own expense.

- 13.03 Abatement.** If City is required to repair damage to all or part of the Premises under Sections 12.01 and 12.02, the Rent payable by Contractor hereunder shall be proportionately reduced to the extent that the Premises are thereby rendered unusable from the date of such casualty until five (5) days after the completion by City of the repairs to the Premises (or the part thereof rendered unusable) in its business, whichever first occurs.
- 13.04 Major Damage to Building.** If all or a substantial part (whether or not including the Premises) of the Building is rendered unusable by damage from fire or other casualty to such a material extent that in the reasonable opinion of City the Building must be totally or partially demolished, whether or not to be reconstructed in whole or in part, City may elect to terminate this Lease as of the date of such casualty (or on the date of notice if the Premises are unaffected by such casualty) by written notice delivered to Contractor not more than sixty (60) days after the date of such casualty.
- 13.05 Limitation on City's Liability.** Except as specifically provided in this Article 12, there shall be no reduction of Rent and City shall have no liability to Contractor by reason of any injury to or interference with Contractor's business or property arising from fire or other casualty, howsoever caused, or from the making of any repairs resulting therefrom in or to any portion of the Building or the Premises. Notwithstanding anything contained herein, rent payable by Contractor hereunder shall not be abated if the damage is caused by a negligence of Contractor, its agents, servants or employees.
- 13.06 Demolition or Substantial Renovation.** Notwithstanding anything contained in this Lease, City may terminate this Lease at any time if it is City's intention to demolish or substantially renovate the Building. City will give Contractor twelve (12) calendar months' notice of termination of the Lease.

ARTICLE 14 – NOTICES

- 14.01 Notices.** Any notice from one party to the other hereunder shall be in writing and shall be deemed duly served if delivered personally to the persons named below, or if mailed by registered or certified mail addressed to Contractor at the Premises (whether or not Contractor has departed from, vacated, or abandoned the same) or to City at the place from time to time established for the payment of Rent. Any notice shall be deemed to have been given at the time of actual receipt or, if mailed, three (3) days after the date of mailing thereof. Either party shall have the right to designate by notice, in the manner above set forth, a different address to which notices are to be mailed.

City's Agents

Jenna Tuma	540 West Hills Circle, Owatonna MN 55060	507-774-7361
Kris M. Busse	540 West Hills Circle, Owatonna MN 55060	507-774-7340

Contractor's Agents

Steve Lacey	1369 Cherry St., Owatonna MN 55060	952-292-7021
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ARTICLE 15 – DEFAULT

- 15.01 Late Payment.** Contractor shall pay monthly to City a late charge of 4% on all Rent required to be paid hereunder which is more than ten (10) days overdue when paid. Contractor shall indemnify City against all costs and charges (including legal fees) lawfully and reasonably incurred in enforcing payment thereof, and in obtaining possession of the Premises after default of Contractor or upon expiration or earlier termination of the Term of this Lease, or in enforcing any covenant, provision or agreements of Contractor herein contained.
- 15.02 Right of City to Perform Covenants.** All covenants and agreements to be performed by Contractor under any of the terms of this Lease shall be performed by Contractor, at Contractor's sole cost and expense, and without any abatement of Rent. If Contractor shall fail to perform any act on its part to be performed hereunder, and such failure shall continue for ten (10) days after notice thereof from City, City may (but shall not be obligated so to do) perform such act without waiving or releasing Contractor from any of its obligations relative thereto. All sums paid or costs incurred by City in so performing such acts under this Section 15.02, together with interest thereon at the rate of 10% per year from the date each such payment was made or each such cost incurred by City, shall be payable by Contractor to City on demand.
- 15.03 Events of Default.** The following events shall be deemed events of default by Contractor under the Lease:
1. Part or all of the Rent hereby required is not paid within 10 days of when due, or
 2. Any goods, chattels, or equipment of Contractor is taken in execution or in attachment, or a writ of execution is issued against Contractor, or
 3. Contractor becomes insolvent or commits an act of bankruptcy or becomes bankrupt or takes the benefit of any statute that may be in force for bankrupt or insolvent debtors or becomes involved in voluntary or involuntary winding up proceedings or if a receiver shall be appointed for the business, property, affairs or revenues of Contractor, or
 4. Contractor moves or commences, attempts, or threatens to move its goods, chattels, and equipment out of the Premises (other than in the normal course of its business) or ceases to conduct business from the Premises, or

5. Contractor fails to observe, perform and keep each and every of the covenants, agreements, provisions, stipulations and conditions herein contained to be observed, performed and kept by Contractor (other than payment of Rent).

Any shorter period of time for cure provided by law notwithstanding, and in lieu thereof, Contractor may cure any default under Section 15.03(3) at any time within ten (10) days after written notice of default is received by Contractor from City; and Contractor may cure any default under Section 15.03(5) above, within ten (10) days after written notice of default is received by Contractor from City, provided that if such non-monetary default is curable but is of such a nature that the cure cannot be completed within thirty (30) days, Contractor shall be allowed to cure the default if Contractor promptly commences the cure upon receipt of the notice and diligently prosecutes the same to completion as promptly as reasonably possible thereafter.

City's notice of default may be accomplished by, and shall not be in addition to, any notice required by law.

15.04 Remedies Upon Default. Upon the occurrence of any event of default by Contractor, City shall have, in addition to any other remedies available to City under this Lease or at law or in equity, the option to pursue any one or more of the following remedies (each and all of which shall be cumulative and non-exclusive) without any notice or demand whatsoever:

1. Terminate this Lease, in which event Contractor shall immediately surrender the Premises to City, and if Contractor fails to do so City may, without prejudice to any other remedy which it may have for possession or arrearages in Rent, subject to applicable law, enter upon and take possession of the Premises and expel or remove Contractor and any other person who may be occupying the Premises or any part thereof. Contractor hereby waives any rights it may have to make any claim or assess any damages against City for such entry and/or expulsion and City may recover from Contractor the following:
 - A. Any unpaid Rent which has been earned at the time of such termination; plus
 - B. The amount of any unpaid Rent which would have been earned after termination until the time of the award; plus
 - C. The amount of any unpaid Rent for the balance of the Term after the time of the award; plus
 - D. Any other amount necessary to compensate City for all the damages proximately caused by Contractor's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.
 - E. At City's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by applicable law.

The term “Rent” as used in this Section 14.01 (1) shall be deemed to be and to mean all sums of every nature required to be paid by Contractor pursuant to the terms of this Lease, whether to City or to others.

2. If City does not elect to terminate this Lease on account of any default by Contractor, City may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

15.05 Surrender of Premises. Upon the expiration of the Term of this Lease, Contractor shall, subject to the provisions for this Article 15, quit and surrender possession of the Premises to City in as good order and condition as when Contractor took possession and as thereafter improved by City and/or Contractor, reasonable wear and tear and repairs which are specifically made the responsibility of City hereunder excepted. Upon such expiration or termination, Contractor shall, without expense to City, remove or cause to be removed from the Premises all debris and rubbish, and such items of furniture, equipment, free-standing cabinet work, movable partitions and other articles of personal property owned by Contractor or installed or placed by Contractor at its expense on the Premises, and such similar articles of any other persons claiming under Contractor, as City may, in its sole discretion require to be removed, the Contractor shall repair at its own expense all damage to the Premises and Building resulting from such removal.

15.06 Disposition of Personal Property. Whenever City shall re-enter the Premises as provided in this Lease, any personal property of Contractor not removed by Contractor upon the expiration of the Term of this Lease, or within 48 hours after a termination by reason of Contractor’s default as provided in this Lease, shall be deemed abandoned by Contractor and may be disposed of by City in accordance with the law of the jurisdiction in which the Building is located.

15.07 Remedies Cumulative. No reference to nor exercise of any specific right or remedy by City shall prejudice or preclude City from exercising or invoking any other remedy in respect thereof, whether allowed at law or in equity or expressly provided for herein. No such remedy shall be exclusive or dependent upon any other such remedy, but City may from time to time exercise any one or more of such remedies independently or in combination. A default under this Lease shall be deemed to be a default under any other agreement between Contractor (or its affiliates) and City (or its affiliates) shall be deemed to be a default under this Lease.

ARTICLE 16 – MISCELLANEOUS

16.01 Relationship of Parties. Nothing contained in this Lease shall create any relationship between the parties hereto other than that of City and Contractor, and it is acknowledged and agreed that City does not in any way or for any purpose become

a partner of Contractor in the conduct of its business, or a joint venture or a member of a joint or common enterprise with Contractor.

- 16.02 Consent Not Unreasonably Withheld.** Except as otherwise specifically provided, whenever consent or approval of City or Contractor is required under the terms of this Lease, such consent or approval shall not be unreasonably withheld or delayed. Contractor's sole remedy if City unreasonably withholds or delays consent or approval shall be an action for specific performance and City shall not be liable for damages. If either party withholds any consent or approval, such party shall on written request deliver to the other party a written statement giving the reasons therefor.
- 16.03 Applicable Law and Construction.** This Lease shall be governed by and construed under the laws of the State of Minnesota, and its provisions shall be construed as a whole according to their common meaning and not strictly for or against City or Contractor. The words City and Contractor shall include the plural as well as the singular. If this Lease is executed by more than one Contractor, Contractor's obligations hereunder shall be joint and several obligations of such Contractors. Time is of the essence of this Lease and each of its provisions. The captions of the Articles are included for convenience only and shall have no effect upon the construction or interpretations of this Lease.
- 16.04 Entire Agreement.** "Lease" means the Lease, and every properly executed instrument which by its terms amends, modifies, or supplements this Lease. This Lease contains the entire agreement between the parties hereto with respect to the subject matter of this Lease. Contractor acknowledges and agrees that it has not relied upon any statement, representation, agreement or warranty except such as are set out in this Lease.
- 16.05 Amendment or Modification.** Unless otherwise specifically provided in this Lease, no amendment, modification or supplement to this Lease shall be valid or binding unless set out in writing and executed by the parties hereto in the same manner as the execution of this Lease.
- 16.06 Construed Covenants and Severability.** All of the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenant and agreements were used in each separate Article hereof. Should any provision of this Lease be or become invalid, void, illegal or not enforceable, it shall be considered separate and severable from the Lease and the remaining provisions shall remain in force and be binding upon the parties hereto as though such provisions had not been included.
- 16.07 No Implied Surrender or Waiver.** No provisions of this Lease shall be deemed to have been waived by City unless such waiver is in writing signed by City. City's waiver of a breach of any term or condition of this lease shall not prevent a subsequent act, which would have originally constituted a breach, from having all

the force and effect of any original breach. City's receipt of Rent with knowledge of a breach by Contractor of any term or condition of this Lease shall not be deemed a waiver of such breach. No act or thing done by City, its agents or employees during the Term shall be deemed an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid, unless in writing signed by City. The delivery of keys to any of the City's agents or employees shall not operate as a termination of this Lease or a surrender of the Premises. No payment by Contractor, or receipt by City, of a lesser amount than the Rent due hereunder shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any check, or payment as Rent, be deemed an accord and satisfaction, and City may accept such check or payment without prejudice to City's right to recover the balance or such Rent or pursue any other remedy available to City.

16.08 Successors Bound. Except as otherwise specifically provided, the covenants, terms and conditions contained in this Lease shall apply to and bind the heirs, successors, executor, administrators and assigns of the parties hereto.

16.09 Acceptance. Upon execution by Contractor and delivery of this document to City, City shall have until May 24, 2024 to accept this Agreement. Contractor acknowledges that City will rely on Contractor's irrevocable offer in awarding contracts for the construction of the Premises.

16.10 Exclusive Rights. Contractor shall have the exclusive right to serve food and beverages to persons using the Premises owned by City.

16.11 City's Covenants. City covenants that Contractor, on performing all of its obligations under this Lease may peacefully and quietly have, hold and enjoy the demised premises for the Term of this Lease.

16.12 Name of Operations; Phone Number. Contractor shall use the words "at Brooktree" following the name they choose as the name of its operations at the Premises. The words "at Brooktree" may be used by City to designate any operations on the Premises after the termination or expiration of this Lease. Contractor shall execute any consent to the use of the name "at Brooktree" which may be required by the Minnesota Secretary of State under Minnesota Statutes, Chapter 302A and 333, in order for a future Contractor of the Premises to use the words "at Brooktree" in its corporate or trade name. Contractor's telephone listing for the Premises shall also be transferred to City upon termination of this Lease.

16.13 Mutual Waiver of Subrogation. City hereby releases Contractor, and Contractor hereby releases City and their respective officers, agents, and employees from any and all liability for loss, damage or injury to the property of the other in or about the Leased Premises or the Property, caused by or results from a peril or event or happening which is covered by insurance actually carried and in force at the time of

the loss by the party sustaining such loss; provided, however, that such waiver shall be effective only to the extent permitted by the insurance covering such loss and to the extent such insurance is not prejudiced thereby.

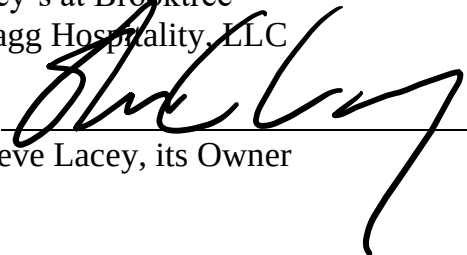
IN WITNESS WHEREOF, the City and Contractor have properly executed this Lease the day and year first above written.

CITY OF OWATONNA

By: _____
Kris M. Busse, its City Administrator

CONTRACTOR

Lacey's at Brooktree
Hwagg Hospitality, LLC

By: _____
Steve Lacey, its Owner

STATE OF MINNESOTA

) ss.

COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this ____ day of May 2024, by Kris M. Busse, City Administrator of the City of Owatonna, a municipal corporation organized under the laws of the State of Minnesota, on behalf of the City of Owatonna.

Notary Public

STATE OF MINNESOTA)

) ss.

COUNTY OF STEELE)

The foregoing instrument was acknowledged before me this _____ day of May 2024, by Steve Lacey, owner of Hwagg Hospitality, LLC, a Limited Liability Company organized under the laws of the State of Minnesota.

Notary Public



PURPOSE MEMO

TO: Mayor, City Council, and City Administrator
FROM: Mark M. Walbran
DATE: May 16, 2024
RE: Approval of Utility Easement Agreement from Festal Place, LLC,
Owner, to City Owatonna Public Utilities

Purpose:

The purpose of the Utility Easement Agreement is to grant an easement to OPU to provide electricity to the CDI Site.

Background:

Festal Place, LLC, owner of the site, presented an easement to OPU to provide underground electric facilities to the site. The easement grants to City/OPU an easement for the provision of underground electric service site. The easement has been reviewed and approved by OPU and our office.

Budget Impact:

None as to the City

City Staff Recommendation:

I recommend that the City execute the Agreement.

CITY ATTORNEY

540 WEST HILLS CIRCLE | OWATONNA, MN 55060-4701 | OWATONNA.GOV | 507.774-7341

UTILITY EASEMENT AGREEMENT

This Utility Easement Agreement ("Agreement") is made this ____ day of May, 2024, between Festal Place, LLC, a Minnesota limited liability company ("Grantor"), and the City of Owatonna, a municipality organized under the laws of the State of Minnesota ("Grantee").

Recitals

WHEREAS, Grantor owns the real property described on Exhibit A attached hereto ("Grantor Parcel").

WHEREAS, Grantor has agreed to provide Grantee with a non-exclusive easement with respect to a portion of the Grantor Parcel in favor of Grantee, pursuant to this Agreement.

NOW THEREFORE, in consideration of the above recitals and the terms and conditions set forth in this Agreement, the parties agree as follows:

1. Grant and Location of Easement. Grantor hereby grants and conveys to Grantee a permanent, non-exclusive easement, for the sole purposes specified in section 2 below (the "Easement") with respect to those specific portions the Grantor Parcel legally described and depicted on Exhibit B attached hereto (collectively, the "Easement Area").

2. Purpose of Easement.

A. Utility Easement. The Easement Area shall be used by Grantee only for the following purposes: inspection, installation, repair, operation, and maintenance of underground electrical utility conduits and facilities, excluding hazardous materials such as natural gas, oil, gas and the like (the "Utility Facilities").

C. General Limitations. Except for the used specified in Section 2A above, no other use of the Easement Area by Grantee is permitted by this Agreement. Grantee agrees not to use the Easement Area in violation of any applicable laws and regulations. The Easement is a private easement and is not available for the general use by the public.

3. Maintenance of Utility Facilities. Subject to the notice provisions contained in Section 9 below, Grantee at its sole cost and expense, shall be responsible for all costs and expenses related to the repair, operation and maintenance of all Utility Facilities located in the Easement Area. All Utility Facilities shall be operated and maintained in accordance with: (i) all applicable laws, rules, and regulations, and (ii) the commonly accepted best practices of the utility industry. If any damage or disruption shall occur on any portion of the Grantor Parcel, or the improvements located thereon as a result of Grantee's activities thereon, Grantee shall at its cost and expense, immediately restore the damaged parcel and such improvements to the same condition as they existed immediately prior to commencing such work.

4. Covenants Run with Land. The promises and covenants contained herein shall run with the land

comprising the Easement Area and shall be binding upon the heirs, personal representatives, successors or assigns of Grantor, unless otherwise terminated, vacated or abandoned by Grantee.

5. No Implied Waiver. No assent, express or implied, to any breach of any one or more of the agreements hereof shall be deemed or taken to be a waiver of any other breach.

6. Assignment. This Easement may not be assigned by Grantee unless the assignee agrees in writing to assume all of Grantee's obligations herein.

7. Default and Remedies. The following shall constitute an event of default under this Agreement: a party defaults in any manner under this Agreement and fails to cure such default within seven (7) days after receiving written notice of the default from the other party, except that this seven day period shall be extended for a reasonable period of time if the alleged default is not reasonably capable of cure within said seven day period and the defaulting party: (i) proceeds to diligently cure the default, and (ii) keeps the non-defaulting party informed of the progress in curing the default. If the defaulting party fails to cure the default within such seven day period or extended cure period, the non-defaulting may exercise one or more of the following remedies: (iii) cure the default and charge the cost thereof to the defaulting party, and all such costs shall be payable upon demand; and / or (iv) institute an action for specific enforcement, injunctive relief, damages, or any other remedy available at law or in equity. Any action seeking one or more forms of relief shall not be a bar to an action at the same or subsequent time seeking other forms of relief. Any delay in realizing, or failure to realize, on any remedy herein for a default hereunder shall not be deemed a waiver of that default or any subsequent default of a similar or different kind, and no waiver of any right or remedy hereunder shall be effective unless in writing and signed by the person against whom the waiver is claimed.

8. Liens and Encumbrances. Grantee shall keep the Easement Area free of all liens and encumbrances, including mechanic's liens, arising out of Grantee's interest in or activities on the Easement Area, and shall indemnify, defend, and hold Grantor harmless from the same.

9. Notification; Timely Repairs. Prior to commencing any inspection, work, maintenance, repair, or modification in the Easement Area, Grantee shall provide Grantor with advance written notice of such proposed work, except in the case of emergencies. Grantee will: (i) consult with Grantor to coordinate the performance of such work in a manner that minimizes inconvenience to Grantor and minimizes interruption of Grantor's business; (ii) promptly perform the work in a timely and efficient manner consistent with Grantor's reasonable coordination requests specified in part (i) above; and (iii) after completion of said work, immediately return all portions of the Easement Area affected by such work to the same condition that existed prior to such work by Grantee.

10. Indemnification and Hold Harmless.

A. **Definitions.** As used in this Agreement, the term: (i) "Claims" means: (1) losses, liabilities, and expenses of any sort, including attorneys' fees; (2) fines and penalties; (3) environmental costs, including but not limited to, investigation, removal, remedial, and restoration costs, and consultant and other fees and expenses; and (4) any and all other costs or expenses; and (ii) "Injury" means: (1) death, personal injury, or property damage; (2) loss of profits or other economic injury; (3) disease or actual or threatened health effect; and (4) any consequential or other damages.

B. **By Grantee.** Grantee covenants and agrees to at all times release, protect, indemnify, defend, and hold harmless Grantor, its directors, officers, agents, employees, successors, assigns, parents, subsidiaries, and affiliates from and against any and all Claims arising from, alleged to arise from, or related to any Injury allegedly or actually occurring, imposed as a result of, arising from, or related to: (i) the Easement or this Agreement; or (ii) the existence, maintenance, operation, repair, inspection, removal, replacement, or relocation of the Utility Facilities, whether by Grantee or its employees or contractors, but only to the extent caused in whole or in part by the negligent acts, errors, or omissions of Grantee, its officers, employees, contractors, or subcontractors. Notwithstanding the foregoing, Grantee shall have no indemnification

obligation to Grantor when such Injury or Claim is caused by: (1) the negligent acts, errors, or omissions of Grantor, its officers, employees, contractors, or subcontractors, or (2) any other non-exclusive easement holder. Notwithstanding the foregoing, Grantee does not waive any governmental immunity or liability limitations provided under Minnesota Law.

C. Survival. This Section 10 shall survive termination of the Easement for two years following the date of Termination.

11. Termination. If Grantor determines that Grantee has abandoned the use of the Easement Area based upon Grantee's non-use of the Easement, Grantor shall deliver written notice of its intent to terminate the Easement to Grantee. Grantee shall have 120 days to affirmatively contest the determination of abandonment by delivering written notice of its objection to Grantor. In that event, the parties agree to meet and confer to resolve the dispute. If the dispute is not resolved, the parties shall proceed to mediation or arbitration pursuant to the Rules of the AAA's Commercial Mediation-Arbitration Procedures. If Grantee does not contest the determination within such 120 period, then the Easement shall terminate.

Upon the termination of the Easement for any reason, Grantee shall at its expense, timely clean up the Easement Area in a workmanlike manner and remove all materials it has placed thereon or thereunder, and restore the Easement Area to substantially the same condition as it was immediately prior to commencing its use of the Easement Area, within 60 days of such termination. The restoration obligations of the parties hereunder shall survive the termination of the Easement and this Agreement.

12. Compliance with Laws, Rules & Regulations. Grantee shall give all necessary notices and obtain all required permits, licenses, and approvals and shall comply and ensure that all of its employees, agents, contractors, subcontractors, invitees, and suppliers comply with all applicable federal, state and local laws, ordinances, governmental rules and regulations relative to the Utility Facilities.

13. Hazardous Materials. Grantee shall not bring (or permit the bringing) onto the Easement Area or the Grantor Parcel any hazardous or toxic substance or material regulated by the State of Minnesota, the United States government, or any other government authority with applicable jurisdiction ("Hazardous Materials"), except for Hazardous Materials incidental to Grantee's operation or a public utility, which Grantee handled in full compliance with all applicable laws. If Grantee brings (or permits the bringing) Hazardous Materials onto the Easement Area (with or without permission of Grantor), Grantee shall: (i) comply with all applicable laws, ordinances, and regulations of federal, state, and local governmental agencies related to such Hazardous Materials; (ii) remove such Hazardous Materials from the Easement Area immediately upon request of Grantor; and (iii) bear all costs related to environmental investigation, cleanup, removal, or restoration of any water, air, groundwater, natural resources, soil, or land, including but not limited to, the Easement Area and the Grantor Parcel, incurred as a result of the presence of such Hazardous Materials on the Easement Area or the Grantor Parcel, or arising out of the acts or omissions of Grantee, its employees, Grantee's agents, contractors, subcontractors, invitees, suppliers and other agents of Grantee.

14. General Provisions. This Agreement: (i) may be amended only by a written amendment signed by both parties; (ii) shall be construed in accordance with and governed by the laws of the State of Minnesota; and (iii) may be executed in two original counterparts, each of which shall be deemed an original of this instrument. Nothing in this Agreement shall be interpreted or construed as a partnership or joint venture between Grantor and Grantee. The section headings herein are inserted only for convenience and reference and shall in no way define, limit, or prescribe the scope or intent of any provisions of this Agreement. Time is of the essence in this Agreement.

[Signatures contained on following page]

IN WITNESS WHEREOF, the parties have hereunto set their hands.

GRANTEE: CITY OF OWATONNA

By: _____

Title: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 2024, by _____ the
_____, of the City of Owatonna, on behalf of the City.

NOTARY PUBLIC

GRANTOR: FESTAL PLACE, LLC

By: _____

Title: _____

STATE OF MINNESOTA)
)ss.
COUNTY OF _____)

The foregoing was acknowledged before me this _____ day of _____, 2024, by
_____ the _____ of Festal Place, on behalf of Grantor.

NOTARY PUBLIC

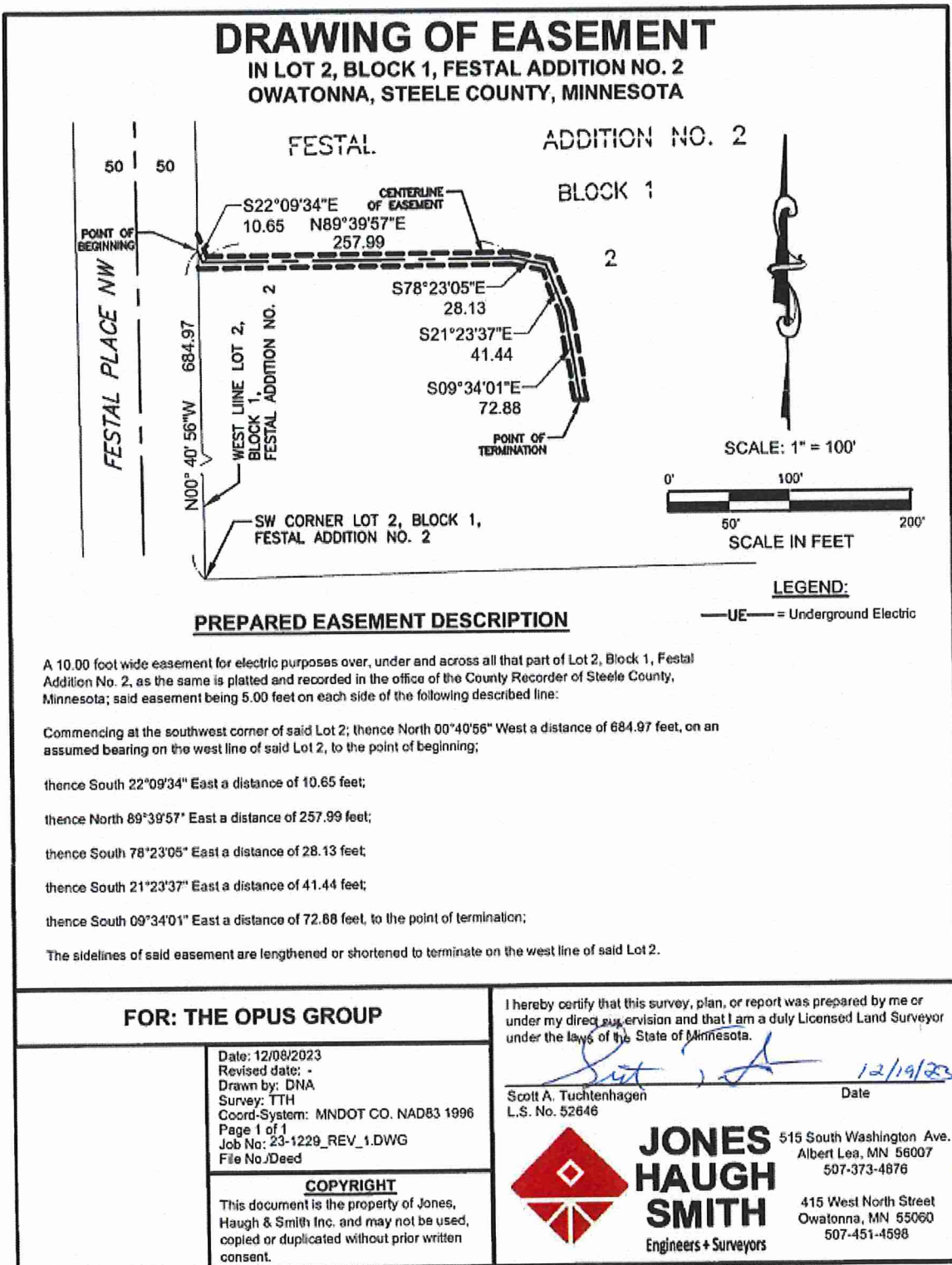
THIS INSTRUMENT DRAFTED BY:
Fredrikson & Byron, PA (MPJ)
111 So. 2nd St., Suite 400
Mankato, MN 56001

Exhibit A
Legal Descriptions

Legal Description of Grantor Parcel:

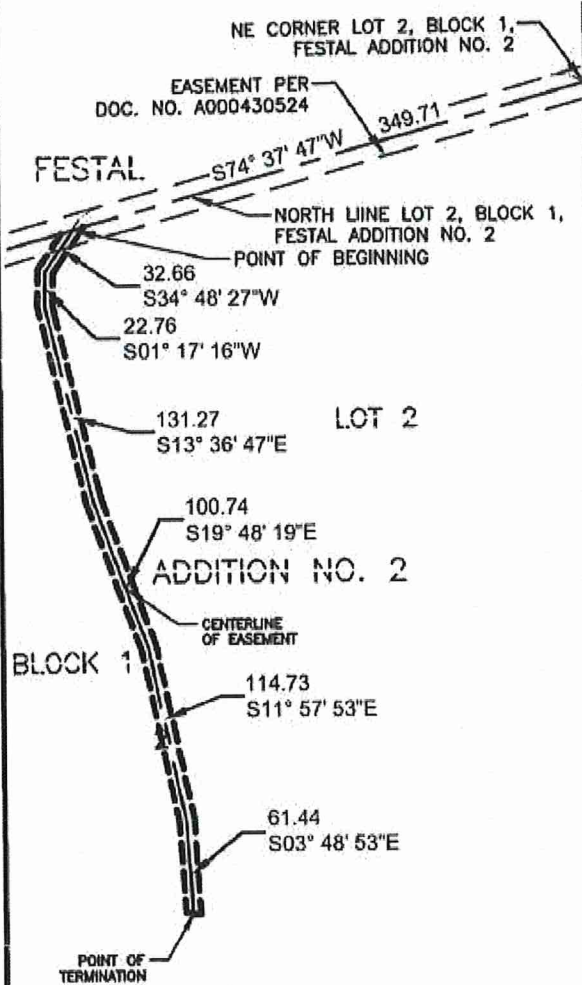
Lot 2, Block 1, Festal Addition No. 2, Steele County, Minnesota

Exhibit B
Depiction of Easement Area



DRAWING OF EASEMENT

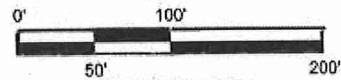
IN LOT 2, BLOCK 1, FESTAL ADDITION NO. 2
OWATONNA, STEELE COUNTY, MINNESOTA



OWATONNA INTERSTATE INDUSTRIAL PARK



SCALE: 1" = 100'



SCALE IN FEET

PREPARED EASEMENT DESCRIPTION

A 10.00 foot wide easement for electric purposes over, under and across all that part of Lot 2, Block 1, Festal Addition No. 2, as the same is platted and recorded in the office of the County Recorder of Steele County, Minnesota; said easement being 5.00 feet on each side of the following described line:

Commencing at the northeast corner of said Lot 2; thence South 74°37'47" West a distance of 349.71 feet, on an assumed bearing on the north line of said Lot 2; to the point of beginning;

thence South 34°48'27" West a distance of 32.66 feet;

thence South 01°17'16" West a distance of 22.76 feet;

thence South 13°36'47" East a distance of 131.27 feet;

thence South 19°48'19" East a distance of 100.74 feet;

thence South 11°57'53" East a distance of 114.73 feet;

thence South 03°48'53" East a distance of 61.44 feet, to the point of termination;

The sidelines of said easement are lengthened or shortened to terminate on the north line of said Lot 2.

FOR: THE OPUS GROUP

Date: 12/08/2023
Revised date: -
Drawn by: DNA
Survey: TTH
Coord-System: MNDOT CO. NAD83 1996
Page 1 of 1
Job No: 23-1229_REV_1.DWG
File No./Deed

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I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Scott A. Tuchenhagen
L.S. No. 52646

Date

12/19/23



**JONES
HAUGH
SMITH**
Engineers + Surveyors

515 South Washington Ave.
Albert Lea, MN 56007
507-373-4876

415 West North Street
Owatonna, MN 55060
507-451-4598



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Sean Murphy, Public Works Director
SUBJECT: Purchase Data Collector and Integrated Control Agreement - RDO Equipment

Purpose:

Requesting City Council approval of the purchase of a Data Collector and a 3-year subscription to Magnet Field.

Background:

The Engineering Department now has three qualified survey technicians after previously having only one. The Department has both a Total Station and GPS unit that both run off of the same data collector to perform survey-grade functions. However, we can only use one at a time due to only having one data collector.

The additional data collector will allow us to get ahead of our survey needs, which include initial topographic surveys, as-built surveys during construction, and asset management updates/tasks to incorporate into OpenGov Asset Management (Cartegraph).

Budget Impact:

The cost of the data collector is \$3,706.60 and the 3-year subscription is \$2,169.20. The total cost of \$5,875.80 will be paid from our operating budget savings from unfilled budgeted positions.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. RDO Equipment Data Collector Purchase Order
2. RDO Integrated Controls Agreement



Retail Purchase Order

RDO Equipment Co.
11030 Holly Lane N
Dayton MN, 55311
Phone: (763) 294-7800 - Fax:

Bill To:
CITY OF OWATONNA
540 W HILLS CIR
OWATONNA, MN, 550604701
(507) 444-2458

Purchase Order Date: 3/16/2024
Purchase Order #: 1742877
Purchaser Account #: 2458013

Customer Purchaser Type:
Customer Market Use:
Location of First Working Use: OWATONNA, MN, 550604701
Account Manager: Dustin Harr
Phone: (763) 294-7800
Fax:
Email: dharr@rdoequipment.com

Equipment Information

Quantity	Serial Number Stock Number	Hours (approx.)	Make / Model Additional Items	Cash Price
1	TBD TBD	0	FC-6000 Construction Kit	\$4,147.00
			Customer Discount State Contract	(\$440.40)
1	TBD TBD	0	Magnet Field 3 year subscription	\$2,169.20
Equipment Subtotal:				\$5,875.80

Purchase Order Totals

Balance:	\$5,875.80
Total Taxable Amount:	\$0.00
MN STATE TAX:	\$0.00
MN COUNTY TAX:	\$0.00
MN SPECIAL TAX:	\$0.00
Sales Tax Total:	\$0.00
Sub Total:	\$5,875.80
Cash with Order:	\$0.00
Balance Due:	\$5,875.80

Legal Information

For the Integrated Controls Equipment

Warranty Disclaimer and Limitation of Liability - EXCEPT FOR WARRANTIES EXPRESSLY AND SPECIFICALLY MADE HERIN, OR BY THE MANUFACTURER OF THE PRODUCT BEING PURCHASED, RDO INTEGRATED CONTROLS MAKES NO OTHER WARRANTIES, AND ANY POSSIBLE LIABILITY OF RDO INTEGRATED CONTROLS HEREUNDER IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL RDO INTEGRATED CONTROLS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST SAVINGS OR OTHER INCIDENTAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT PROVIDED HEREUNDER. UNLESS OTHERWISE PROVIDED BELOW, THIS EQUIPMENT IS SOLD AS IS WITH NO WARRANTY PROVIDED LESS THAT PROVIDED FROM THE MANUFACTURER.

ACKNOWLEDGEMENTS - I (we) promise to pay the balance due shown above in cash, or to execute a Time Sales Agreement (Retail Installment Contract), or a Loan Agreement, for the purchase price of the Equipment, plus additional charges as shown thereon or execute a Lease Agreement, on or before delivery of Equipment ordered herein. Despite physical delivery of the Equipment, title shall remain in the seller until one of the foregoing is accomplished and I (we) hereby grant a security interest to RDO Integrated Controls in the equipment.

FCC Regulations - It is the responsibility of the end user to understand and be compliant with FCC regulations concerning the registration of radio frequencies for operating equipment equipped with radio modems.

It is the responsibility of the end user to understand and comply with regulations for the use and flight of aerial vehicles under United States, international civil aviation and export control policies, laws and regulations. Unmanned Aircraft Systems' (UAS) acquired from RDO Equipment Co. or RDO Integrated Controls (RDOIC) are to be used in compliance with the laws, regulations and policies that govern the flight of aircraft in the United States. UAS products acquired from RDO, are subject to U.S. export controls when in the United States and subject to the laws of other export control authorities when outside the United States. The Undersigned acknowledges that it is likely that the UAS purchased from RDO will require a license for export from the United States and other countries. The Undersigned agrees that it will determine any export and reexport license requirements to export the UAS products from the United States or any other country and, as applicable, to reexport the products outside the United States, will obtain any export or reexport license or other official authorization, and will carry out any customs formalities for the export or reexport of the UAS products, such as using a duly authorized agents; and The Undersigned also agrees that it will not export, sell, use, or transfer UAS products acquired from RDO in violation of any applicable U.S. or non-U.S export control, embargoes, sanctions or other laws and regulations. The undersigned certifies that all of the facts contained in this statement are true and correct to the best of its knowledge and it does not know of any additional facts that are inconsistent with the above statements. It shall promptly send a replacement certification to RDO disclosing any material change of facts or intentions described in this certification that occur after this certification is prepared and forwarded to:

SIC Information - Please be advised that RDO Integrated Controls has assigned its rights to sell Topcon and Carlson rental equipment (as defined under SIC code #3531 and as described in this document) and the rights to sales proceeds (including "trade-in assets" related thereto) to North Star Deferred Exchange LLC. as part of IRC Sec. 1031 exchange.

Upon signature of delivery acknowledgment, customer is accepting the equipment, including attachments, in "AS IS" condition, agreeing to notify RDO Equipment Co. within 24 hours of any damages or discrepancies found upon receipt of equipment.

Signature Area

Purchase Order Accepted By:

(Customer's Signature)

(Date Accepted)

(Authorized Signature of Dealer)

(Date Accepted)

Delivery of Equipment Acknowledgement:

(Customer's Signature)

Date Accepted

Equipment Options

Qty	Serial Number	Make / Model	Description
1	TBD	FC-6000 Construction Kit	1043729-03 Topcon FC-6400 Windows Based 7" Controller with Ram Mount
1	TBD	Magnet Field 3 year subscription	1033060-01 Magnet Field 3 year subscription



RDO Promise™ — Uptime Guaranteed™ Integrated Controls Agreement

Customer Name: CITY OF OWATONNA

Stock Number:

Description:

Serial Number:

FC-6000 Construction Kit

TBD

Magnet Field 3 year subscri

TBD

Standard Manufacturer Warranty:

Years Expiration Date:

RDO Integrated Controls Responsibilities:

The RDO Promise™ — Uptime Guaranteed™ - Integrated Controls (Agreement) applies to all new Topcon, Carlson Machine Control, Sokkia, Wingtra, or Vision Aerial equipment that falls within the standard manufacturer warranty program, is purchased from any RDO Integrated Controls location, is located within RDO Integrated Controls Area of Responsibility (AOR) and is within the continental United States. On rental purchase options, the RDO Promise™ — Uptime Guaranteed™ - Integrated Controls begins at the time of initial rental delivery to the Customer.

1. Pre-delivery inspection and testing on all products purchased from RDO Integrated Controls

All inspections and testing will be performed/completed by an RDO Integrated Controls team member prior to delivery to the Customer.

2. Free in-store inspection on any unit purchased from RDO Integrated Controls

Valid on qualifying equipment for one year after purchase date.

3. Repair of defective components covered under basic manufacturer warranty

4. Lease or retail finance plans available.

RDO Integrated Controls has in-house financing representatives available to assist in structuring finance programs using available options.

5. Free freight on all warrantable repairs.

- a. Covers warranty parts ordered through manufacturer for repairs.
- b. Standard freight covered by RDO Integrated Controls

- 6. Exclusive 60-day access to RDO Integrated Controls Solutions Center phone support**
 - a. The first 60 days of ownership are covered complimentary.
 - b. The first four hours of RDO Integrated Controls team member drive time is free on warranty items during the exclusive access timeframe when dispatched through the RDO Integrated Controls Solutions Center.
 - i. Exceptions include but are not limited to Carlson Machine Control equipment
 - c. Phone support will be provided at \$125.00 per hour for customers who do not purchase a support agreement after the RDO Promise™ - Integrated Controls Agreement offer expires.
- 7. Free software and firmware updates within the first 60 days of purchase**

An RDO Integrated Controls team member will evaluate the updates requested and will determine if they are necessary. If deemed necessary, (machine control and GPS products) updates will be covered.
- 8. Guaranteed after-hours RDO Integrated Controls team member availability via phone for each RDO Equipment Co. location across our Area of Responsibility (AOR).**

Customer Responsibilities

1. Original Equipment Manufacturer (OEM) recommended maintenance and preventative maintenance schedules must be followed. These schedules may only be modified through a mutual written Agreement between Customer and RDO Integrated Controls.
2. The Customer is responsible for all costs associated with maintenance and inspections as outlined in the respective equipment operator's manual.
3. Repairs and/or maintenance if caused by but not limited to abuse, vandalism, neglect, accident, fires, acts of God, improper operation or operating conditions, substandard maintenance, or maintenance practices, weather conditions, labor controversies, or causes beyond the control of RDO Integrated Controls. Repair, maintenance, and/or replacement of standard wear items (including touch screens, touch screen protectors, batteries, stylus, and charging devices) are not included. Repair/replacement of hydraulic hoses, lines, and fittings are not included. Repair/replacement of cables, connectors, and associated components are not included.
4. Customers must agree to the terms and conditions of the RDO Integrated Controls loaner agreement, including insurance.
5. Equipment availability at a reduced rental rate for repairs performed by RDO Integrated Controls after the expiration of the RDO Promise™ Integrated Controls Agreement and prior to any support agreements.
6. The equipment may not be altered or modified in any manner which affects the mechanical operations as described by the Original Equipment Manufacturer (OEM) without approval of the OEM and/or RDO Integrated Controls.
7. The Customer is responsible for scheduling the components covered in this Agreement for routine maintenance/calibration (before failure) to minimize downtime and service costs.
8. The Customer agrees to provide RDO Integrated Controls and its representatives with reasonable access to the above-listed equipment for the purpose of inspection, technical analysis, and repair and maintenance on a regular basis. RDO Integrated Controls will make every effort to perform these services during times convenient to the Customer. Failure to do so may void this Agreement.
9. The Customer agrees to use only genuine OEM parts and follow all OEM standards for maintenance and repairs performed by Customer personnel.
10. If a failure is believed to be imminent, RDO Integrated Controls may remove and repair or replace components. Component replacement and repair decisions will be made by RDO Integrated Controls using manufacturer's designated diagnostic software, machine inspection, technical analysis, and

expected component life. Decisions regarding parts and component replacement with new, rebuilt, or remanufactured items will be at the discretion of RDO Integrated Controls.

11. RDO Integrated Controls agrees to notify the Customer regarding pending repairs or component replacement.

General Terms and Conditions

1. RDO Integrated Controls will provide adequate training and best practices on all equipment sold under this Agreement.
2. Delays in furnishing service shall be excused if caused by but not limited to acts of God, fires, weather conditions, labor controversies, or causes beyond the controls of RDO Integrated Controls.
3. Customer must meet all responsibilities as set forth above, example, if the equipment covered in this Agreement leaves RDO Equipment Co.'s Area of Responsibility, RDO Equipment Co. retains the right to terminate the guarantees contained in the RDO Promise™-Uptime Guaranteed™ Agreement.
4. This Agreement commences upon delivery of the equipment to the Customer.
5. THIS AGREEMENT IS NOT TRANSFERABLE.

Customer (Signature)

RDO Integrated Controls (Signature)

Customer (Print Name)

RDO Integrated Controls (Print Name)

Date

Date



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Kris Busse, City Administrator
SUBJECT: Contract - Aaron Guzman Photography

Purpose:

Council approval of a contract with Aaron Guzman Photography.

Background:

The 2024 City Budget includes professional photography for photos to use when updating the design of the City's website.

Budget Impact:

\$2,000 is included in the 2024 City Administration Budget for this project.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Contract - Aaron Guzman Photography



From **Aaron Guzman Photography**
533 15th Street Se
Owatonna
MN
55060
United States
Phone number:
5078845193
Email:
AaronGuzman.Photography@gmail.com

Contract for **Rebranding Photography**
Main Shoot
May 11 2024 - July 31 2024
City of Owatonna, West Hills Circle, Owatonna,
MN, USA

Deanna Sheely
540 West Hills Circle
Owatonna
MN
55060-4701
Phone number:
5077747343
Email:
deanna.sheely@owatonna.gov

Terms & Conditions

THIS AGREEMENT, effective as of (Date), between Aaron Guzman Photography ("PHOTOGRAPHER"), and City of Owatonna - Communication Manager Administrative Services Department, a (Government) with its principal office at 540 West Hills Circle, Owatonna, MN, 55060-4701 .

WITNESSETH:

WHEREAS, Photographer is the owner of various originally produced images; and

WHEREAS, Photographer is the owner of the copyright rights to the images; and

WHEREAS, Photographer has the sole and exclusive right to sell, license, or authorize the use of such images; and

WHEREAS, Licensee desires the right to use certain images for certain commercial purposes; and

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and other valuable consideration as hereinafter described, the parties hereto agree as follows:

CONTRACT

I. THE GRANT:

- a. The Photographer hereby grants the Licensee the right to utilize certain photograph[s], more particularly described as:
 - ° Digital Photos
- b. The use of such photograph[s] described in paragraph I(A) above, is limited to the following commercial uses:
 - ° Websites
 - ° Social media

- ° Blogs, articles, magazines
 - ° Third party opt-ins
 - ° Marketing material
- c. This Agreement shall continue in force for two years from the effective date first written.
- d. The Territory of this Agreement is limited to: United States
- e. The grant of this License shall not be assignable or sub-licensable by the license without the prior written consent of the photographer.
- f. The grant of this License shall result in the payment of \$2000.00 for use of photographs listed in Subsection A, Section The Grant.
- g. The payment shall not exceed the sum of \$2000.00, unless expressly agreed upon for subsequent services.

II. PHOTOGRAPHIC EVENT AND PRODUCT:

a. A non-refundable retainer of thirty percent (30%) shall be remitted to Photographer prior to the photographic event to reserve the photographic event to be executed at City of Owatonna, West Hills Circle, Owatonna, MN, USA on 05/11/2024 The Licensee's Point of Contact shall be Deanna Sheely or paid in full by agreed time.

Payment shall be remitted by direct link provided by the invoice, check, cash, or other electronic payments. The total amount shall be remitted by Licensee to Photographer prior to the photographic events.

b. Should the Licensee wish to amend or cancel this agreement during its term, they will be responsible for payment for services rendered up to that point. Any rescheduling must occur within the same calendar year.

c. Completion schedules and delivery of products shall be determined from date of final approval by Licensee. Third-party manufacturing laboratories are utilized for products and may provide restrictions on an order not outlined in this agreement. Licensee should place orders with sufficient time to allow for normal delays and notify Photographer at the time of the order if there are any extenuating circumstances requiring a quicker turn around. An expedited fee of \$50.00 shall be applied to expedited product requests. The Photographer shall not be held responsible for delivery delays due to the fault of manufacturing and/or delivery services.

d. The Photographer retains the right of discretion in selecting the photographic materials released to the Licensee. The Licensee shall receive a minimum gallery of **(between 25-50 digital camera images and 3-6 drone images)** of photographs to select from and shall not receive any photographic materials not presented to the Licensee. The photographer or drone pilot retains full discretion regarding the timing and location of drone flights in accordance with FAA regulations.

e. The Licensee shall not engage in photography or videography during the course of the photographic event unless otherwise agreed to by the Photographer.

f. Digital Files. Approximately 1 weeks after the session date, the agreed-upon number of digital files will be available for viewing and downloading from an online, password-protected gallery. Client agrees and understands that Photographer, in his sole artistic discretion, decides which images taken during the session will be edited and presented in the Client's gallery; not all images taken during the session will be presented to the Client.

g. Editing. Client agrees and understands that Photographer edits the proofs at his own artistic discretion, and said editing is included in the session fee. Additional heavy editing will be charged at any extra rate of \$50 per image.

h. Export of Digital Files:

The Photographer shall export the digital files to the Client according to the specified parameters, delivering full-resolution files at 300 dpi and 72 dpi in JPG format as follows:

- ° Homepage: 2200x550 pixels
- ° Interior: 2200x300 pixels

i. Archive and Storage. The Photographer archives all proofed images from each session for a period of 12 months from the date of the session. After that time, the Photographer deletes all proofed images from his hard drive and all external hard drives. The Photographer is not responsible for digital files once they are downloaded by the Client. The Client is responsible for making electronic back-up copies of any digital files that are purchased from the Photographer and for keeping them in a safe place.

j. The photographer shall not be held liable for matters pertaining to model releases, third parties, actors, or individuals who object to the use of their image in marketing materials.

III. LICENSE FOR USE OF IMAGES:

a. Licensee agrees to utilize the photograph[s] in a commercially reasonable manner and in such manner that will not harm the professional reputation of photographer. The licensee agrees not to utilize the photograph[s] in any pornographic, illegal, libelous, scandalous, or such other manner that would tend to damage the image and reputation of the photographer.

b. It is understood that any commercial use of any photograph[s] by the licensee be of a workmanlike quality acceptable to the photographer, who shall evaluate such acceptability in accordance with traditional standards of good faith and fair dealing.

c. Photographer shall be given a sample that will allow the photographer to make an informed approval of the style and quality of the commercial use of the photograph. Photographer shall have three [3] calendar days from the receipt of any sample materials to approve or disapprove the use of the photograph[s]. Disapproval must be communicated to the licensee within this three-day period and a written confirmation. Failure to disapprove within the aforementioned time period will be deemed a full and effective consent to that particular submission only.

d. Upon receipt of any disapproval, licensee may submit changes or revisions which photographer will approve or disapprove in the manner described in Clause II(C) above.

e. Photographer and Licensee shall at all relevant times herein maintain the utmost good faith and fair dealing in their mutual duties under this agreement.

IV. COPYRIGHT:

a. Licensee hereby covenants and agrees to affix to a proper copyright notice to any photograph[s] utilized under this agreement. Such notice shall properly identify the photographer as the owner of the licensed image.

b. Licensee acknowledges that the Photographer shall remain the sole author, sole owner and sole copyright claimant of any licensed photograph[s] and does not transfer ownership or control of said copyrights except as hereto agreed.

V. ACKNOWLEDGMENT OF RIGHTS:

During the term of this Agreement and at all times thereafter Licensee acknowledges and agrees not to contest, or assist or induce others to do so, the Photographers rights in and to any photograph[s].

VI. CONSIDERATION:

The Licensee hereby agrees and undertakes to pay the following consideration to the Photographer for the use of the photograph[s].

- i. Digital Camera images
- ii. Digital Drone images

VII. INDEMNIFICATION:

a. Licensee agrees, at its sole expense, to indemnify, defend and hold harmless the Photographer from and against any judgment, action, losses, deficiencies, damages, liabilities, cost and expenses (including reasonable attorneys' fees and

expenses) incurred in connection with or arising from any claim, suit or proceeding brought against the Photographer arising from any adverse claim of ownership to any rights, title, and interest in and to the licensed images, including, but not limited to, actions existing in copyright, trademark, unfair competition, passing off, or any other claim or cause action based on the rights of and/or ownership to the licensed images, or other intellectual properties which comprise this Agreement. Photographer, at Licensee's request, shall defend Licensee in any such third party claim.

b. Licensee shall at all times during the term of this Agreement, and at all times after the termination hereof, indemnify and keep indemnified and hold Photographer harmless from and against all expenses incurred and damages paid by Licensee in respect of any third party claim or action against Licensee arising from any claims, suit or proceeding brought against Photographer for defamation, libel, slander, or invasion of privacy.

VIII. THIRD PARTY INFRINGEMENT:

Licensee will promptly call to the attention of Photographer the use of the photograph[s] by any third party which licensee considers to be an infringement. Photographer and licensee shall consult one another as to whether proceedings shall be brought against such third parties. In the event that photographer and licensee decide that action should be taken against such third parties, Photographer may take such action in their own name or, alternatively, Photographer may authorize Licensee to initiate such action in Licensee's name. Licensee and Photographer agree to cooperate fully with one another to whatever extent it is necessary to prosecute such action, all expenses being borne by Photographer and all damages that may be recovered being solely for the account of Photographer.

IX. FORCE MAJEURE:

Neither party shall be liable for any delay in performing or failing to perform obligations if that delay or failure results from events or circumstances outside its reasonable control. Such delay or failure shall not constitute a breach of this agreement and the time for performance shall be extended by a period equivalent to that during which performance is so prevented provided that if such delay or failure persists for more than 90 days, nothing in this Clause shall be taken to limit or prevent the exercise by either party of its rights of termination under Clause X without claim [arising from the termination] against the party defaulting by reason of force majeure cure provided that any outstanding pre-existing claims shall not be thereby terminated.

X. TERMINATION:

a. This agreement shall terminate in the event that Photographer or Licensee materially breaches any portion of this agreement. Such termination shall take effect immediately after fourteen [14] calendar days after notice of the breach from one party to the other. Both parties shall have the right to notify the other of their intent to take substantial steps to cure any breach. If such notice is delivered, the agreement shall not terminate, unless such substantial steps do not in fact occur.

b. This agreement shall terminate forthwith in the event of bankruptcy or judicial or administrative declaration of insolvency of Photographer or Licensee that relate to any duty of performance under this agreement.

c. Upon termination of this Agreement, licensee shall discontinue all use of the Licensed photograph[s] in any manner whatsoever and shall return any and all Photograph[s] to the photographer that remain in the Licensee's care, custody and control.

XI. CONFIDENTIALITY:

Not applicable, this is a standard contract with public entity which may be viewed by members of the public.

XII. MISCELLANEOUS:

a. Any waiver by either Licensee or Photographer of any breach of a term or condition of this Agreement, or failure to perform under this agreement, shall not be considered as a waiver of any subsequent breach of the same or any condition hereof.

b. If any provision, clause or section of this Agreement is declared void or unenforceable by any judicial or administrative authority, the remaining portions of this agreement shall remain in full force and effect.

c. This Agreement shall not create or be construed to create a partnership, joint venture, association or any type of combination. No party shall have the power or authority to act as the agent of the other or to authorize or incur obligations on behalf of the other or to make on behalf of the other party any promises, warranties or representations.

d. The parties expressly consent to jurisdiction and venue of the federal and state courts of the State of Minnesota with respect to any suit, claim or dispute arising out of, or relating to, this Agreement. It is understood and agreed by the parties that the Court where litigation is first commenced will retain jurisdiction over any and all related claims or disputes arising out of and concerning this Agreement. Depending on which State any action may be commenced, this Agreement shall be deemed to have been made in such State, and shall be governed by and construed in accordance with the laws of such State.

e. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, assigns, parents, subsidiaries or otherwise related or affiliated companies.

f. This Agreement, including this paragraph, may be modified or amended only by a writing signed by all parties to this Agreement.

g. This Agreement represents the entire agreement of the parties, and all prior assertions, understandings, warranties and representations are merged herein. It is a final integrated Agreement which embodies all the terms, conditions, and representations between the parties, and the parties make no warranties, covenants or agreements, express or implied, except as expressly set forth herein.

IN WITNESS WHEREOF, the parties hereto have caused this License Agreement to be executed, in duplicate originals, by their duly authorized representatives as of the day and year first written above.

I confirm that I have read and understood this contract, and I agree to enter into this contract with Aaron Guzman Photography

City of Owatonna
Kris M. Busse, City Administrator

RECAP:

20,000.00	Mo Fitness LLC - EDA Forgivable Loan - ext. & int. improvements
702,396.00	Near North Title Group - purchase Steele Co 1/2 of LEC
78,771.31	Nero Engineering - WWTF Upgrade & Expansion April 2024
32,845.00	Prime Garage Door & More LLC
	Garage doors repairs - \$3,945.00
	Garage door - CIP project GB-24-001 - \$28,900.00
1,312,596.95	Rice Lake Construction Group - WWTP Expansion Est #23
76,610.59	Steele Co Auditor
	1st qtr LEC expenditures - \$73,549.07
	LEC generator upgrade - \$3,061.52
23,062.00	Streicher's - protective gear/ammo
561,694.06	Ziegler - 2024 Paver - Street dept
<u>195,867.21</u>	OTHER EXPENDITURES
3,003,843.12	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					
378044	05/15/24	AVFUEL CORPORATION	13,105.03	R	ACH
378045	05/15/24	METRONET SYSTEMS HOLDINGS LLC	500.33	R	ACH
378046	05/15/24	STEELE COUNTY TREASURER	1,368.44	0	Regular
378047	05/15/24	T-MOBILE	1,274.12	0	Regular
378048	05/15/24	VERIZON WIRELESS	571.04	0	Regular
378049	05/21/24	ABDO PUBLISHING	22.95	R	ACH
378050	05/21/24	ACUSHNET COMPANY	131.98	0	Regular
378051	05/21/24	ADVANCED ENGINEERING & ENVIRON	5,365.75	0	Regular
378052	05/21/24	ALEXANDER LUMBER COMPANY	454.35	0	Regular
378053	05/21/24	ALS GROUP USA CORP	207.50	R	ACH
378054	05/21/24	APG MEDIA OF SO MINNESOTA LLC	806.76	0	Regular
378055	05/21/24	APPLIED CONCEPTS INC	399.00	0	Regular
378056	05/21/24	ARAMARK	23.78	0	Regular
378057	05/21/24	BAKER & TAYLOR BOOKS	958.52	R	ACH
378058	05/21/24	BROYHILL EQUIPMENT LLC	161.20	R	ACH
378059	05/21/24	C&D OIL SERVICES OF WASECA LLC	60.00	0	Regular
378060	05/21/24	CARQUEST	646.15	0	Regular
378061	05/21/24	CCP INDUSTRIES INC	353.56	R	ACH
378062	05/21/24	CEMSTONE CONCRETE MATERIAL LLC	4,006.60	0	Regular
378063	05/21/24	CEMSTONE PRODUCTS CO	271.72	0	Regular
378064	05/21/24	CENTRAL FARM SERVICE	18,905.25	0	Regular
378065	05/21/24	CITY OF OWATONNA	27.00	0	Regular
378066	05/21/24	CITY OF SAINT PAUL	300.00	0	Regular
378067	05/21/24	CLUB CAR LLC	975.00	0	Regular
378068	05/21/24	CORPORATE RECOGNITION	1,058.17	R	ACH
378069	05/21/24	COSTCO WHOLESALE CORPORATION	50.00	0	Regular
378070	05/21/24	COVERALL OF THE TWIN CITIES	2,455.00	R	ACH
378071	05/21/24	CRYSTEEL TRUCK EQUIP	320.00	R	ACH
378072	05/21/24	CULLIGAN OF OWATONNA	152.78	R	ACH
378073	05/21/24	CUSHMAN MOTOR CO INC	857.34	R	ACH
378074	05/21/24	DLL FINANCE LLC	9,161.16	0	Regular
378075	05/21/24	ENTENMANN-ROVIN CO	363.50	R	ACH
378076	05/21/24	FARMERS FEED AND PET SUPPLY	381.73	0	Regular
378077	05/21/24	FIRST SUPPLY OWATONNA	69.56	R	ACH
378078	05/21/24	FLOW MEASUREMENT AND CONTROL	330.00	R	ACH
378079	05/21/24	FOUR SEASONS ELECTRIC	7,813.49	R	ACH
378080	05/21/24	GRAINGER	614.40	R	ACH
378081	05/21/24	HAWKINS INC	10,140.48	R	ACH
378082	05/21/24	HILLYARD INC	989.10	0	Regular
378083	05/21/24	HORNUNG'S GOLF PRODUCTS INC	60.95	0	Regular
378084	05/21/24	HUBER SUPPLY CO INC	305.95	0	Regular
378085	05/21/24	IFACS	1,140.08	R	ACH
378086	05/21/24	INNOVATIVE OFFICE SOLUTIONS	1,119.76	0	Regular
378087	05/21/24	INSTY PRINTS	755.00	R	ACH

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
378088	05/21/24	JJD COMPANIES LLC	3,000.00	R	ACH
378089	05/21/24	KARDEX HANDLING SOLUTIONS LLC	480.00	0	Regular
378090	05/21/24	KENDELL DOORS & HARDWARE INC	261.00	R	ACH
378091	05/21/24	KOWZ-FM	500.00	R	ACH
378092	05/21/24	KROMER PRO LLC	549.43	R	ACH
378093	05/21/24	KWIK TRIP INC	201.68	0	Regular
378094	05/21/24	L & L STREET RODS & SPORT TRUC	6,776.26	R	ACH
378095	05/21/24	LARRY THORNHILL	272.00	0	Regular
378096	05/21/24	LAWSON AUTOMOTIVE LLC	114.04	R	ACH
378097	05/21/24	LAWSON PRODUCTS	547.62	0	Regular
378098	05/21/24	LEAGUE OF MN CITIES	2,550.00	0	Regular
378099	05/21/24	LEGACY SIGNS INC	375.00	R	ACH
378100	05/21/24	LINDER DIGITAL	1,180.00	0	Regular
378101	05/21/24	MACQUEEN EQUIPMENT CO	727.41	R	ACH
378102	05/21/24	MANKE'S OUTDOOR EQUIP & APPL	299.99	R	ACH
378103	05/21/24	MARCO TECHNOLOGIES LLC	819.47	R	ACH
378104	05/21/24	MARIE RIDGEWAY LICSW LLC	320.00	R	ACH
378105	05/21/24	MARV'S PICTURE FRAMES	1,195.00	R	ACH
378106	05/21/24	MATTHEW R HOKANSON	543.73	R	ACH
378107	05/21/24	METRO SALES INC	1,177.89	0	Regular
378108	05/21/24	MID-AMERICAN RESEARCH CHEMICAL	759.11	0	Regular
378109	05/21/24	MIDWEST TAPE LLC	1,970.03	R	ACH
378110	05/21/24	MINA ADSIT ARCHITECTURE & PLAN	553.80	R	ACH
378111	05/21/24	MINER'S OUTDOOR & RECREATION	37.99	0	Regular
378112	05/21/24	MINNESOTA PAVING & MATERIALS	638.49	R	ACH
378113	05/21/24	MN DRIVER & VEHICLE SERVICES	30.50	0	Regular
378114	05/21/24	MN GOLF ASSOCIATION	180.00	0	Regular
378115	05/21/24	MO FITNESS LLC	20,000.00	0	Regular
378116	05/21/24	MRI SOFTWARE LLC	75.00	R	ACH
378117	05/21/24	MTI DISTRIBUTING INC	464.65	R	ACH
378118	05/21/24	NAPA AUTO PARTS	1,847.86	R	ACH
378119	05/21/24	NATL TACTICAL OFFICERS ASSN	450.00	0	Regular
378120	05/21/24	NEAR NORTH TITLE GROUP	100.00	0	Regular
378121	05/21/24	NEAR NORTH TITLE GROUP	702,396.00	R	Wire Transfer
378122	05/21/24	NERO ENGINEERING	78,771.31	R	ACH
378123	05/21/24	NIMO ABDULLE	100.00	0	Regular
378124	05/21/24	NOLYNN TABOR	150.00	0	Regular
378125	05/21/24	NORTHLAND FARM SYSTEMS	172.36	R	ACH
378126	05/21/24	OFFICE OF MNIT SERVICES	420.00	0	Regular
378127	05/21/24	Owatonna Fitness	4,326.16	0	Regular
378128	05/21/24	OWATONNA MOTOR COMPANY	1,634.65	0	Regular
378129	05/21/24	OWATONNA PEOPLE'S PRESS	273.00	0	Regular
378130	05/21/24	OWATONNA PUBLIC UTILITIES	3,018.32	R	ACH
378131	05/21/24	OWT HARDWARE	312.85	0	Regular
378132	05/21/24	PAAPE COMPANIES INC	360.06	R	ACH

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
378133	05/21/24	PB PARENT HOLDCO, LP	587.00	R	ACH
378134	05/21/24	PIONEER MANUFACTURING COMPANY	2,655.00	R	ACH
378135	05/21/24	PRIME GARAGE DOOR & MORE LLC	32,845.00	R	ACH
378136	05/21/24	RCM SPECIALTIES	982.98	0	Regular
378137	05/21/24	RDO EQUIPMENT CO	450.45	R	ACH
378138	05/21/24	REINDERS INC	6,750.41	R	ACH
378139	05/21/24	RICE COUNTY HRA MANAGEMENT	1,941.79	0	Regular
378140	05/21/24	RICE LAKE CONSTRUCTION GROUP	1,312,596.95	R	ACH
378141	05/21/24	RIPPLEY RICHARD REAL ESTATE	2,036.25	0	Regular
378142	05/21/24	SCHMIDT GOODMAN OFFICE PRODUCT	452.11	R	ACH
378143	05/21/24	SCHOLASTIC INC	19.68	R	ACH
378144	05/21/24	SCOTT F LIMBERG	1,250.00	R	ACH
378145	05/21/24	SELCO	4,672.51	R	ACH
378146	05/21/24	SENIORPLACE INC	199.00	0	Regular
378147	05/21/24	SHERWIN WILLIAMS COMPANY	26.33	0	Regular
378148	05/21/24	SHI INTERNATIONAL CORP	8,161.02	0	Regular
378149	05/21/24	SIGN PRO OF OWATONNA	256.00	0	Regular
378150	05/21/24	STANTEC CONSULTING SERVICE INC	16,693.46	R	ACH
378151	05/21/24	STATE INDUSTRIAL PRODUCTS	948.53	0	Regular
378152	05/21/24	STEELE COUNTY AUDITOR	76,610.59	0	Regular
378153	05/21/24	STEELE COUNTY RECORDER	20.00	0	Regular
378154	05/21/24	STEELE COUNTY TREASURER	54.00	0	Regular
378155	05/21/24	STEVE JAMES EXCAVATING INC	60.00	R	ACH
378156	05/21/24	STEWART COMPANIES INC	1,084.08	0	Regular
378157	05/21/24	STEWART DENISE	203.40	0	Regular
378158	05/21/24	STEWART SANITATION	1,682.72	0	Regular
378159	05/21/24	STREICHER'S INC	23,062.00	0	Regular
378160	05/21/24	TEMPLE ELECTRIC MOTOR SERV INC	1,930.07	R	ACH
378161	05/21/24	THOMPSON SANITATION INC	77.40	R	ACH
378162	05/21/24	TOR SPERLING	2.49	R	ACH
378163	05/21/24	TRI M GRAPHICS	54.02	R	ACH
378164	05/21/24	TRI STATE BOBCAT	103.58	R	ACH
378165	05/21/24	UKG INC	750.00	R	ACH
378166	05/21/24	UNITED WAY	100.00	0	Regular
378167	05/21/24	USABUEBOOK	308.00	R	ACH
378168	05/21/24	UTILITY CONSULTANTS INC	2,149.62	R	ACH
378169	05/21/24	VAN METER INC	84.60	0	Regular
378170	05/21/24	VESSCO INC	4,777.72	R	ACH
378171	05/21/24	VESTIS FIRST AID	299.25	0	Regular
378172	05/21/24	VESTIS GROUP INC	406.35	0	Regular
378173	05/21/24	W L HALL COMPANY	1,025.00	R	ACH
378174	05/21/24	WALBRAN & FURNESS CHARTERED	497.70	R	ACH
378175	05/21/24	WALLACE CARLSON PRINTING	275.02	R	ACH
378176	05/21/24	WENCL PLUMBING	100.15	0	Regular
378177	05/21/24	WEST PUBLISHING CORPORATION	581.43	R	ACH

Check Number	Check Date	Vendor Name	Net Check Amount	Check Status	Check Type
378178	05/21/24	WILLIAM A KENZIE	1,632.00	0	Regular
378179	05/21/24	YATTA GOLF LLC	726.26	0	Regular
378180	05/21/24	ZIEGLER INC	561,694.06	R	ACH

apadatecr2 City of Owatonna

sbera
A/P Check Register
Checks from

to

05/15/2024 16:13

Page 4

67	Checks total:	203,456.34
69	ACH total:	2,097,990.78
0	EFTPS total:	
1	Wire transfer total:	702,396.00
0	Payment Manager total:	
137	GRAND TOTALS	3,003,843.12



CITY OF
OWATONNA

Ordinances



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Ashley Zidon, Planning Specialist
SUBJECT: First Reading Proposed Ordinance 24-02: RZ-7, Rezone Cashman Addition No. 3

Purpose:

Request Council approval of the first reading of Proposed Ordinance 24-02, an ordinance approving RZ-7, request to rezone Cashman Addition No. 3.

Background:

See attached staff report. Planning Commission held a public hearing for this request and recommend approval.

Budget Impact:

None.

Staff Recommendation:

Staff recommends approval and proposed the second final reading of this proposed ordinance be heard during the next City Council Meeting on June 4, 2024.

Attachments:

1. Proposed Ordinance 24-02: RZ-7 Cashman Addition No. 3
2. Staff Report - RZ-7 Cashman Add No. 3

Proposed Ordinance No.
ORDINANCE NO. 24-02

AN ORDINANCE AMENDING ORDINANCE NO. 157,
OWATONNA ZONING ORDINANCE

WHEREAS, the owner of the hereinafter described lands has made application for a change in zone classification for said lands and public hearing has been held according to the provisions of Section 157.098, of Ordinance No. 157, and the Planning Commission of the City of Owatonna has recommended the change in zone classification as requested.

THE CITY COUNCIL OF THE CITY OF OWATONNA DO ORDAIN:

SECTION 1. Ordinance No. 157, Zoning Ordinance, is hereby amended so that the zoning map that is thereby incorporated by reference shall be changed as follows:

1. Pursuant to Application No. RZ-7 filed with the City of Owatonna, Minnesota, to change the zone classification, and after public hearing, held May 14, 2024, said application is hereby approved and the zone classification is hereby changed from R-1 Single Family Residential to R-6 High Density Residential for the following described property:

To be platted as Lot 1, Block 2, Cashman Addition No. 3, and to the centerline of all adjacent rights of way, of Owatonna, Steele County, Minnesota.

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 _____, 2024, with the following vote:

Aye _____; No _____; Absent _____.

Approved and signed this _____ day of _____, 2024.

ATTEST:

Thomas A. Kuntz, Mayor

Kris M. Busse, City Administrator/City Clerk

May 10, 2024

To: Planning Commission
From: Community Development Department
RE: Application No. RZ-7, City of Owatonna, a request to rezone the subject property from R-1 Single Family Residential to R-6 High Density Residential District for the purposes of residential redevelopment for the subject property to be addressed 285 22nd St NW.

Application Review:

PIN: 17-004-1404
Now referred to as “subject property”

Applicant: City of Owatonna
Now referred to as “applicant”

Owner: City of Owatonna

Legal Description: To be platted as lot 1, block 1, Cashman Addn No. 3

Existing Zoning: R-1 Single-Family Residential District

Existing Land Use: The property is currently vacant

Adjacent Zoning & Land Uses: *North:* Low density residential zoned R-1; separated by 22nd Street NW
South: High density residential zoned R-6
East: High density residential zoned R-6
West: Mobile home zoned MH, mobile home park; separated by 3rd Avenue NW

Site Area: 0.56 acres

Location: 22nd Street NW and 3rd Avenue NW to the west

Report Attachments:

1. Application Materials
2. Location Maps (aerial and site)
3. Zoning map
4. Future land use map

Proposed Development

- Application No. RZ-7, City of Owatonna, now referred to as “applicant”, requests to rezone the subject property from R-1 Single Family Residential to R-6 High Density Residential for the purposes of residential redevelopment.
- This is a City of Owatonna initiated rezoning request, to be platting as lot 1, block 1, Cashman Addition No. 3, to be addressed 285 22nd St NW.

- The purpose for the rezoning request is to facilitate residential redevelopment of this vacant parcel.
- The proposed multi-family project will need to go through all permit approvals prior to commencing construction.
- It is likely that a variance will be needed to facilitate the redevelopment of this parcel to meet setback requirements for certain housing types.
- The rezoning of this parcel would make the development in harmony and within community context of the existing block and adjacent properties (east, south, and west).

Alignment with the Comprehensive Plan

The 2006 Future Land Use Plan identifies this parcel as low density residential. The surrounding parcels within this block (east and south) are identified as high density residential on the future land use map.

An assumption for the low density residential classification may have been due to the vacant status of the parcel, when the surrounding future land uses are HDR. The future land use plan viewed this parcel on its own, as opposed to evaluating the larger neighborhood and development potential. Therefore, staff believe the proposal to be in general harmony with the future land use map.

Compatibility with Surrounding Land Uses

The parcel is currently vacant and situated next to high density residential parcels (east and south) and mobile home to the west. The single-family zoning and low-density land use future designation would impact the built form and scale of the neighborhood if a single-family home was approved to be constructed.

The proposal to rezone to R-6 High Density Residential is in alignment with surrounding uses of adjacent properties. Staff believe the rezoning is compatible with the existing neighborhood.

R-6 High Density Residential District Regulations

The request meets minimum lot sizes and yard requirements for the R-6 zoning.

The rezoning, and correlating assigned zoning district, offers different residential development types. *157.020 residential district use chart* allows 3-4 unit multifamily, 5-12 unit multi-family, multi-family (over 12 units), townhouses, and two-family dwellings.

Findings of Fact

1. The City of Owatonna is the “applicant” and “owner” properly applied for the rezoning for the subject property.
2. That the requested rezoning designation for the subject property is R-6 High Density Residential.
3. The rezoning is compatible with the existing neighborhood because the surrounding parcels (east, south, and west) have existing land uses as higher density residential.
4. That the properties to the east and south have a future land use of high density residential. These properties are located within the same block.
5. The R-6 High Density Residential zoning district includes a range of medium and high density housing typologies such as two-family dwellings, townhomes, 3-4 unit, 5-12 unit, multifamily over 12 units.

6. The purpose of the zoning establishment is to make this parcel in harmony with the surrounding parcels.

Recommendation

Staff recommends **approval** of the rezoning of Lot 1, Block 1, Cashman Addition No. 3, from R-1 Single Family Residential to R-6 High Density Residential based on findings of fact.

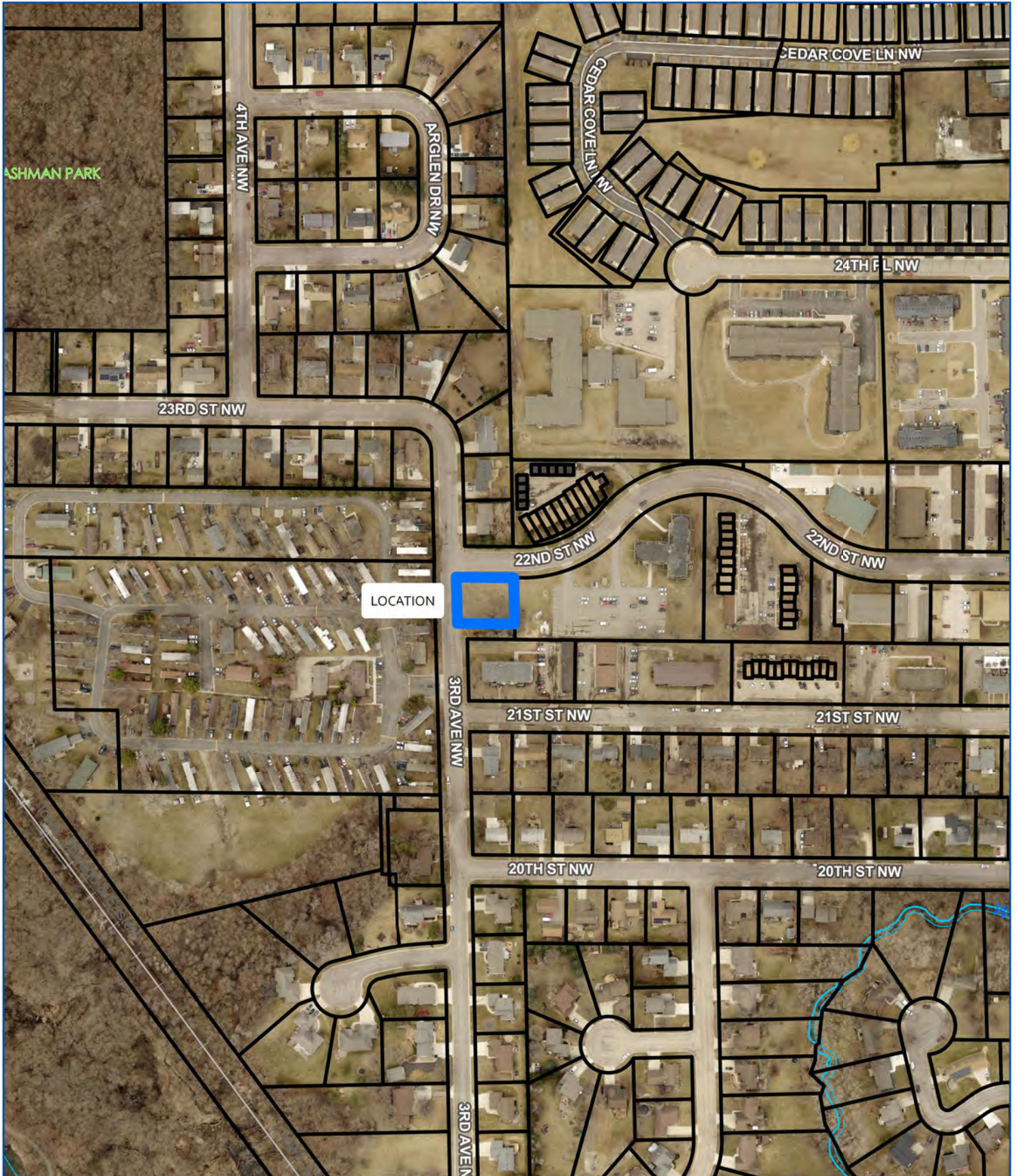
Planning Commission Minutes

Application No. RZ-7, which is a request by the City of Owatonna to rezone the subject property from R-1 Single Family Residential District to R-6 High Density Residential District for the purposes of residential redevelopment for the subject property to be addressed 2285 22nd Street NW, was presented by Planning Specialist Ashley Zidon. (Refer to report on file.) Public hearing opened at 5:45 pm. No comments were made regarding this request. Public hearing closed at 5:46 pm. Effertz said this makes sense. A motion was made by Effertz and seconded by Springer-Gasner to recommend approval of this rezoning of Lot 1, Block 1, Cashman Addition No. 3 from R-1 Single Family Residential District to R-6 High Density Residential District based on findings of fact.

All Commissioners voting Aye, the motion carried.

Location Map - 285 22nd Street NW
City of Owatonna

Exb A





PRELIMINARY PLAT CASHMAN ADDITION NO. 3
PART OF THE NE1/4 OF THE NE1/4 OF SECTION 4-T107N-R20W
OWATONNA, STEELE COUNTY, MINNESOTA

LEGAL DESCRIPTION

All that part of the Northeast Quarter of Section 4, Township 107 North, Range 20 West described as follows:

Beginning at the southwest corner of the Northeast Quarter of the Northeast Quarter of said Section 4, thence South 10 rods, thence East 9 rods, thence North 10 rods, thence West 9 rods to the point of beginning.

STREET ADDRESS

285 22ND STREET NW
OWATONNA, MN 55060

Zoned: R-1

Single Family Residential

Setbacks:

Front Yard = 30

Side Yard = 10

Rear Yard = 30

AREA

Gross 0.56 ACRES±

PROPOSED LOT AREA

0.31 ACRES±

OWNER

City of Owatonna

PHOTO FROM STEELE COUNTY GIS

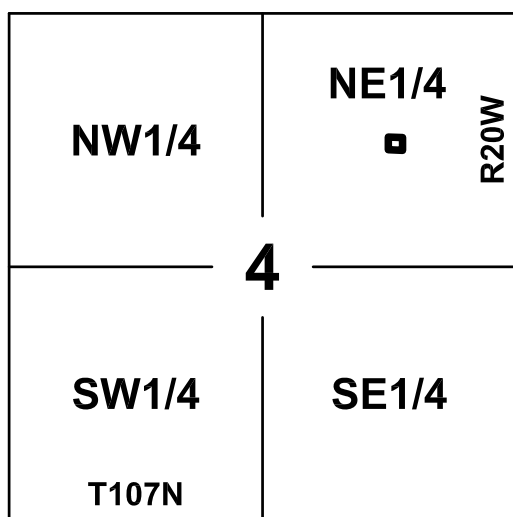


Some site improvements and topography may have been concealed by winter conditions at the time of survey.

LEGEND

- = 5/8 inch X 16 inch iron monument (capped RLS 52646)-Placed
- = Iron monument-Found
- W = Water Main
- S = Sanitary Sewer
- ST = Storm Sewer
- G = Gas Main
- FO = Fiber-Optics
- UE = Underground Electric
- OE = Overhead Electric
- EH = Hand Hole
- EB = Electric Box
- TP = Telephone Pedestal
- CB = Catch Basin
- MS = Manholes & Manhole
- EL = Elevation Contour Line
- CS = Concrete Surface
- BS = Bituminous Surface
- GS = Gravel Surface

VICINITY MAP



BASIS OF BEARING SYSTEM

All bearings are based upon the MnDot Steele County Coordinate system Nad 83 (11) Harn Adjustment Grid

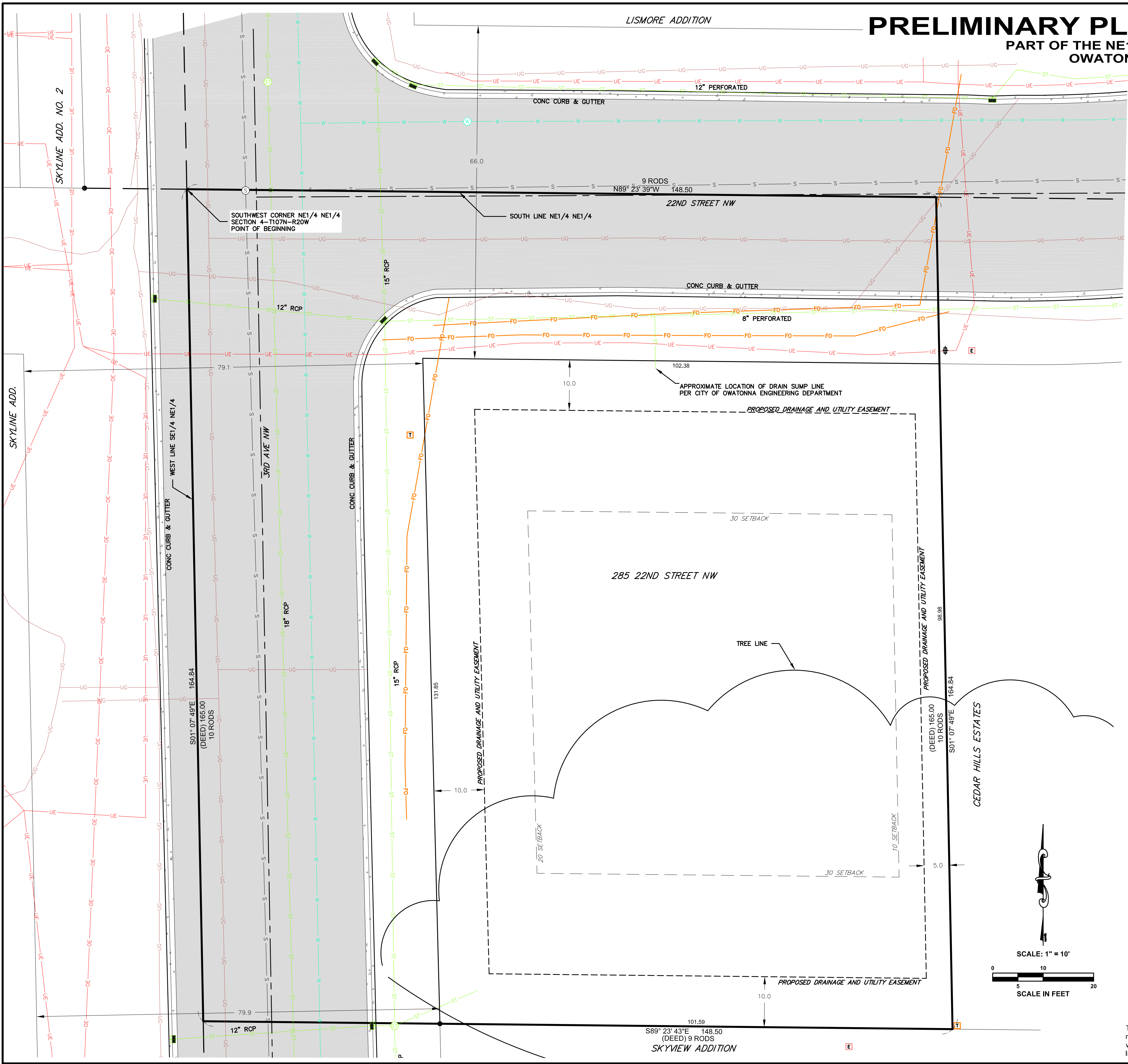
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JONES, HAUGH & SMITH INC.

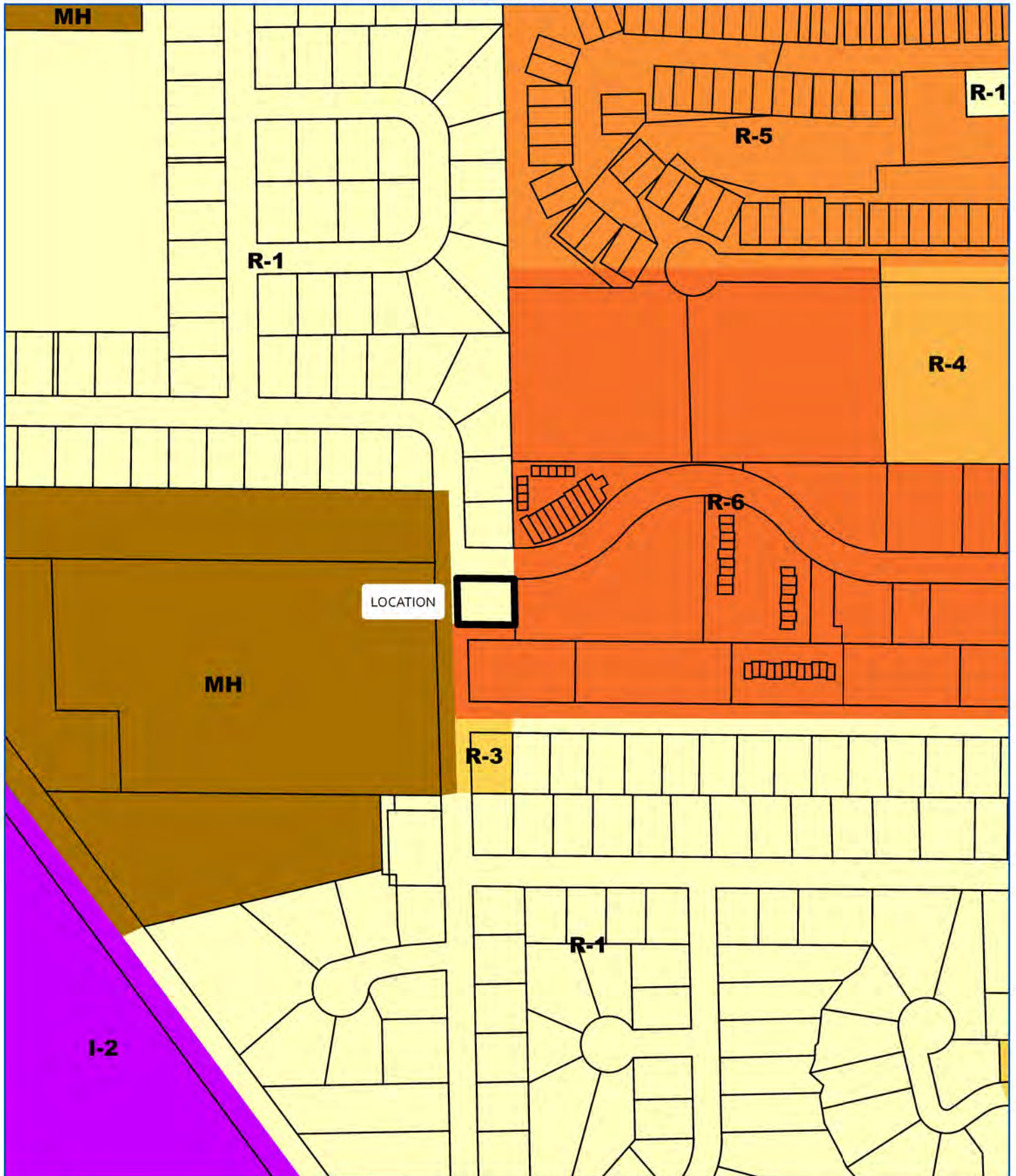
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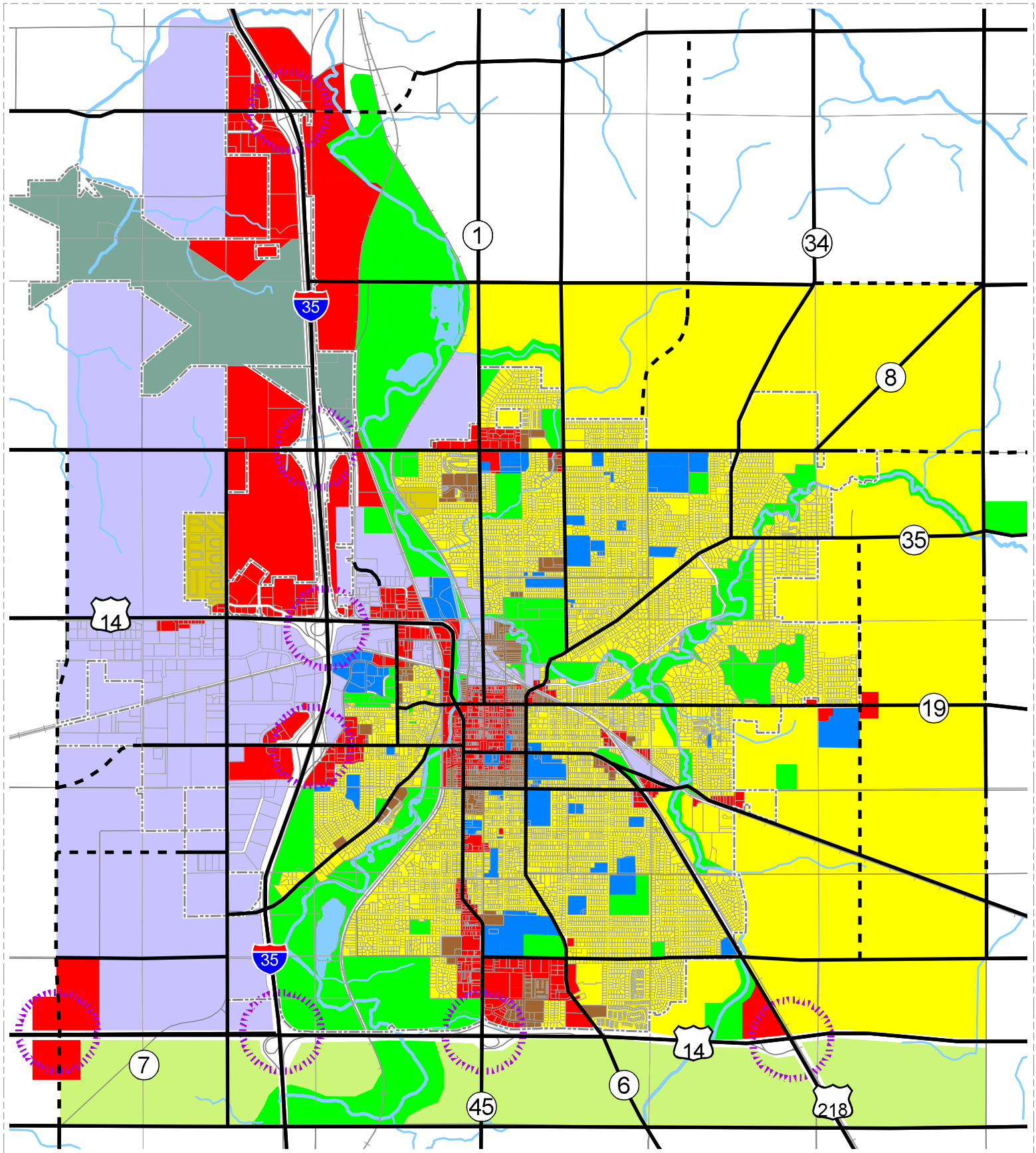
SHEET NO. 1 OF 1 SHEETS



Zoning Map
285 22nd Street NW

Exb A





Development Plan City of Owatonna, Minnesota

- City Boundary
- Highway Intersections
- Major Transportation Corridors
- Future Transportation Corridors
- Railroad
- Low Density Residential
- High Density Residential
- Mobile Homes

- Commercial
- Industrial
- Park/Open Space
- Public/Institutional
- Airport
- Agricultural
- Open Water

2,000 0 2,000 4,000 6,000 Feet





CITY OF
OWATONNA

Resolutions



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Ashley Zidon, Planning Specialist
SUBJECT: Resolution 52-24 Preliminary Plat - Cashman Addition No. 3

Purpose:

Request Council approval of Resolution 52-24 for approval of the Preliminary Plat of Cashman Addition No. 3.

Background:

See attached staff report. The Planning Commission held a public hearing on this request and are recommending approval.

Budget Impact:

None.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Resolution 52-24 Preliminary Plat - Cashman Addition No. 3
2. Staff Report - Cashman Preliminary Plat

RESOLUTION NO. 52-24

A RESOLUTION APPROVING PRELIMINARY
PLAT OF CASHMAN ADDITION NO 3.

WHEREAS, on May 21, 2024, the City Council accepted and approved the preliminary plat of Cashman Addition No. 3 to the City of Owatonna, as the same was approved and recommended by the Planning Commission of the City.

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

1. That said plat is in accordance with and conformity to the plans and regulations established by the City for a comprehensive plan for the development of the City.
2. That said plat be and the same hereby is approved with the following conditions:
 - a) Future development needs to comply with all state and local requirements and codes at the time of construction.
3. That the Clerk cause a certified copy of this resolution to be filed in the office of the County Recorder of Steele County, Minnesota, and to be given to the applicants of said plat.

Passed and adopted this 21st day of May, 2024; with the following vote:

Aye ____; No ____; Absent ____;

Approved and signed this ____ day of _____;

Thomas A. Kuntz, Mayor

ATTEST:

Kris M. Busse, City Administrator/City Clerk

May 10, 2024

To: Planning Commission

From: Community Development Department

RE: Preliminary Plat Cashman Addition No. 3

Application Review

PIN: 17-004-1404
Now referred to as “subject property”

Address and Location 285 22nd St NW
22nd Street NW and 3rd Avenue NW to the west

Applicant: City of Owatonna
Now referred to as “applicant”

Owner: City of Owatonna

Existing Zoning: R-1 Single-Family Residential District; requested to be rezoned to R-6 High Density Residential

Existing Land Use: The property is currently vacant

Report Attachments: Preliminary plat
Location map
Project narrative
Zoning map
Future land use map

Background

The City of Owatonna is requesting approval of the preliminary plat of Cashman Addition No. 3, a single-lot residential plat. The applicant is proposing residential redevelopment of this parcel. The intent is for the applicant to solicit an RFP for redevelopment, welcoming a range of medium and high density residential proposals; those allowable uses under the R-6 zoning district.

Access to the parcel may be off 3rd Ave NW or 22nd St NW. The parcel is serviced through existing water, sewer, and storm sewer located in 3rd Avenue NW.

Proposed Development:

Size of Subdivision: 0.56± acres

Number of Lots: One lot subdivision

Lot Configuration: Generally rectangular in shape

Street Pattern:	No changes to existing streets
Services:	Storm, sewer, and water are located in 3 rd Ave NW. No utility stubs are present on the site, per preliminary plat
Timing of Development:	The applicant will record the plat after approval to develop the RFP
Outstanding Assessments:	None
Floodplain:	None
Wetlands:	The property does not have any wetlands
Storm Water Drainage:	There will be site alterations as part of the residential redevelopment. Will be reviewed specifically with a grading permit for any new construction.
Easements:	None proposed
County/MNDOT Review:	Not adjacent to a ROW

Context

The subject property is guided as low density residential on the future land use map. The parcel is currently vacant. The subject property is zoned R-1 Single Family Residential.

The subject property is situated next to R-6 high density residential (east and south) and mobile home (west). Directly to the north is an R-1 single family home.

A rezoning for R-6, High Density Residential is following the preliminary plat.

Comprehensive Plan Alignment

The preliminary plat is platting an existing lot within city limits for the purposes of redevelopment. This application aligns with the following 2006 Owatonna Development Plan Goals:

Primary land use objectives and principles

- Provide new high quality residential areas that are a prominent Owatonna characteristic.
- Assure that new growth is compatible with the existing development pattern and that development occurs in a fashion that best utilizes existing infrastructure and minimizes public costs.
- Discourage unnecessary urban sprawl into the rich agricultural areas surrounding the city and encourage the county and townships to maintain a policy of protecting agricultural uses and directing urban levels of development into cities where such growth can best be accommodated.

Residential growth areas

- **Policy** – The city will encourage developers of new subdivisions to provide some housing types that are suited to the needs of the city’s aging population.
- **Policy** – The city will support multi-family residential uses in areas where there is proximity to major thoroughfares, commercial areas, open space or other amenities, or in areas that are an extension of existing multi-family use.

Access and Streets

Site plan will be reviewed for compliance with zoning ordinance at the time of application.

Utilities

Storm, sewer, and water exist in 3rd Ave NW. No sanitary or water stubs are shown on existing GIS or preliminary plat. Developer will need to go into the street to tap water and sewer lines.

Natural Resource Inventory

No wetlands are on this parcel, confirmed by Steele County Soil and Water Conservation District.

Findings of Fact

1. The City of Owatonna initiated a preliminary plat and is referred to as “the applicant.”
2. That the surrounding properties are currently zoned and have the following land use:
 - a. *North*: Low density residential zoned R-1; separated by 22nd Street NW
 - b. *South*: High density residential zoned R-6
 - c. *East*: High density residential zoned R-6
 - d. *West*: Mobile home zoned MH, mobile home park; separated by 3rd Avenue NW
3. That the preliminary plat meets minimum lot sizes in the City of Owatonna zoning code (157.028).
4. That the future zoning (R-6) is in general alignment of the comprehensive plan because the surrounding parcels (east, south, and west) are designated as Mobile Home and High Density Residential.
5. That the preliminary plat offers two potential access points to support a range of housing types.
6. That the property is adequately served by utilities, with storm, sewer, and water existing in 3rd Ave NW.

Recommendation

Staff recommends **approval** of the preliminary plat, Cashman Addition No. 3, based on findings of fact and the following condition:

1. Future development needs to comply with all state and local requirements and codes at the time of construction.

Planning Commission Minutes

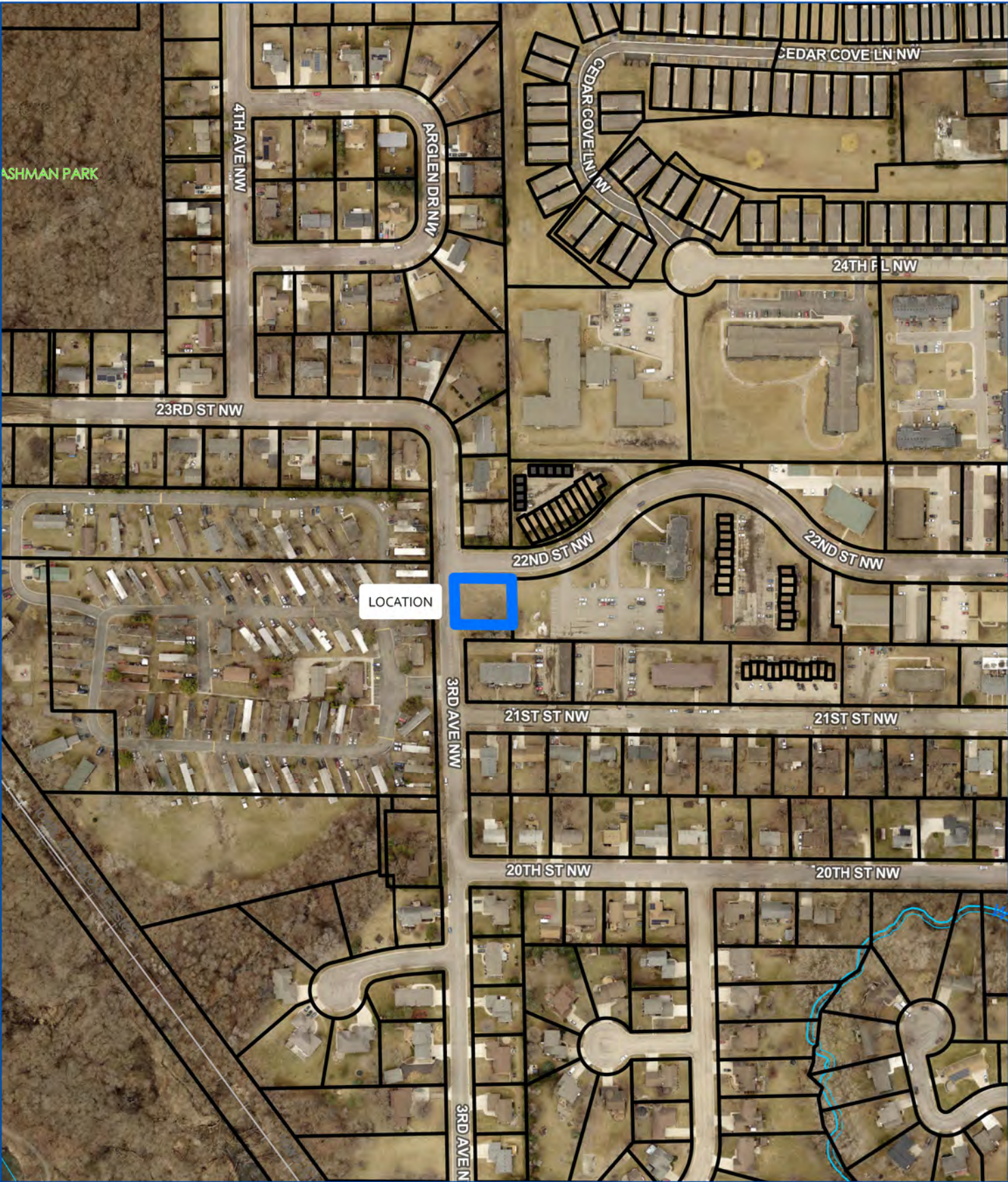
Preliminary Plat of Cashman Addition No. 3, which is a 0.56± acre tract of land zoning R-1 Single Family Residential District and requested to be rezoned to R-6 High Density Residential District, Community Business District, requested City of Owatonna and located at 285 22nd Street NW, was presented by Planning Specialist Ashley Zidon. (Refer to report on file.) Public hearing opened at 5:36 pm. No comments were made regarding this request. Public hearing closed at 5:37 pm. Eickhoff asked if there were any parks nearby and wondered if a pocket park was a consideration for this lot. Zidon said we have Manthey Park to the east and Cashman Park to the north and west. Kruschke said that one of the City's goals is to get larger parks rather than the smaller parks as they're harder to maintain. Effertz asked how long the City has owned this lot. Kruschke said this was a donation that came from the Cashman family. Springer-Gasner asked how big of a dwelling might fit—a four-unit complex? Zidon said that density will be something that is looked at in the RFP. Kruschke said we'll have to go through the process. A motion was made by Effertz and seconded by Eickhoff to recommend City Council approval of this preliminary plat of Cashman Addition No. 3, based on findings of fact and the following conditions:

Future development needs to comply with all state and local requirements and codes at the time of construction.

All Commissioners voting Aye, the motion carried.

Location Map - 285 22nd Street NW
City of Owatonna

Exb A



This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This information is a compilation of records, information, and data located in various city, county, and state offices and other sources, affecting the area shown, and is to be used for reference purposes only.

April 30, 2024



PRELIMINARY PLAT CASHMAN ADDITION NO. 3
PART OF THE NE1/4 OF THE NE1/4 OF SECTION 4-T107N-R20W
OWATONNA, STEELE COUNTY, MINNESOTA

LEGAL DESCRIPTION

All that part of the Northeast Quarter of Section 4, Township 107 North, Range 20 West described as follows:

Beginning at the southwest corner of the Northeast Quarter of the Northeast Quarter of said Section 4, thence South 10 rods, thence East 9 rods, thence North 10 rods, thence West 9 rods to the point of beginning.

STREET ADDRESS
285 22ND STREET NW
OWATONNA, MN 55060

Zoned: R-1
Single Family Residential
Setbacks:
Front Yard = 30
Side Yard = 10
Rear Yard = 30

AREA
Gross 0.56 ACRES±
PROPOSED LOT AREA
0.31 ACRES±

OWNER
City of Owatonna

PHOTO FROM STEELE COUNTY GIS

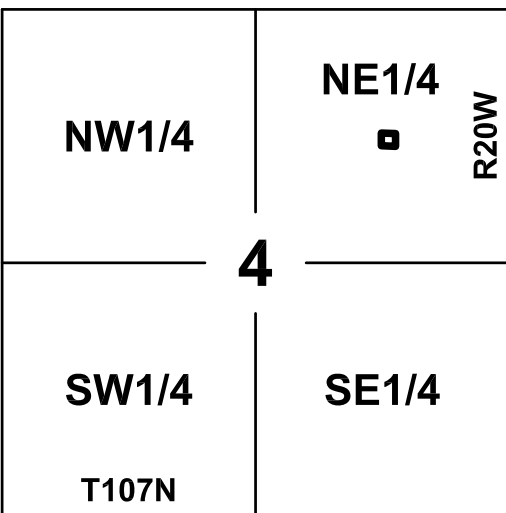


Some site improvements and topography may have been concealed by winter conditions at the time of survey.

LEGEND

- = 5/8 inch X 16 inch iron monument (capped RLS 52646)-Placed
- = Iron monument-Found
- W = Water Main
- S = Sanitary Sewer
- ST = Storm Sewer
- G = Gas Main
- FO = Fiber-Optics
- UE = Underground Electric
- OE = Overhead Electric
- EH = Hand Hole
- EP = Electric Box
- TP = Telephone Pedestal
- CB = Catch Basin
- MS = Manholes & Manhole
- EL = Elevation Contour Line
- CS = Concrete Surface
- BS = Bituminous Surface
- GS = Gravel Surface

VICINITY MAP



BASIS OF BEARING SYSTEM

All bearings are based upon the MnDot Steele County Coordinate system Nad 83 (11) Harn Adjustment Grid

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JONES, HAUGH & SMITH INC.
22-1200PP



April 4, 2024

Greg Kruschke
Community Development Manager
(507) 774-7317
Greg.Kruschke@owatonna.gov

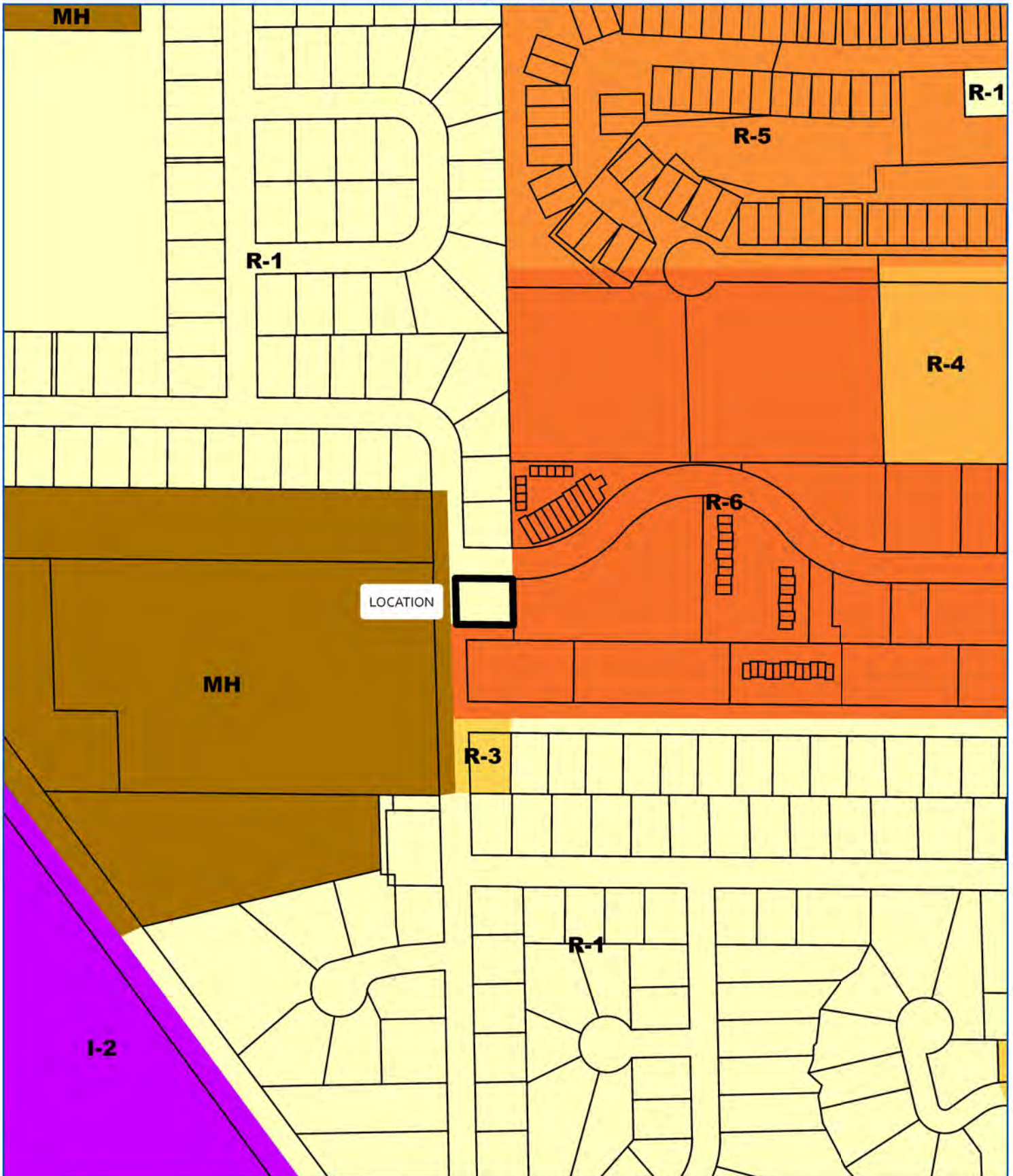
RE: Cashman Addition No. 3

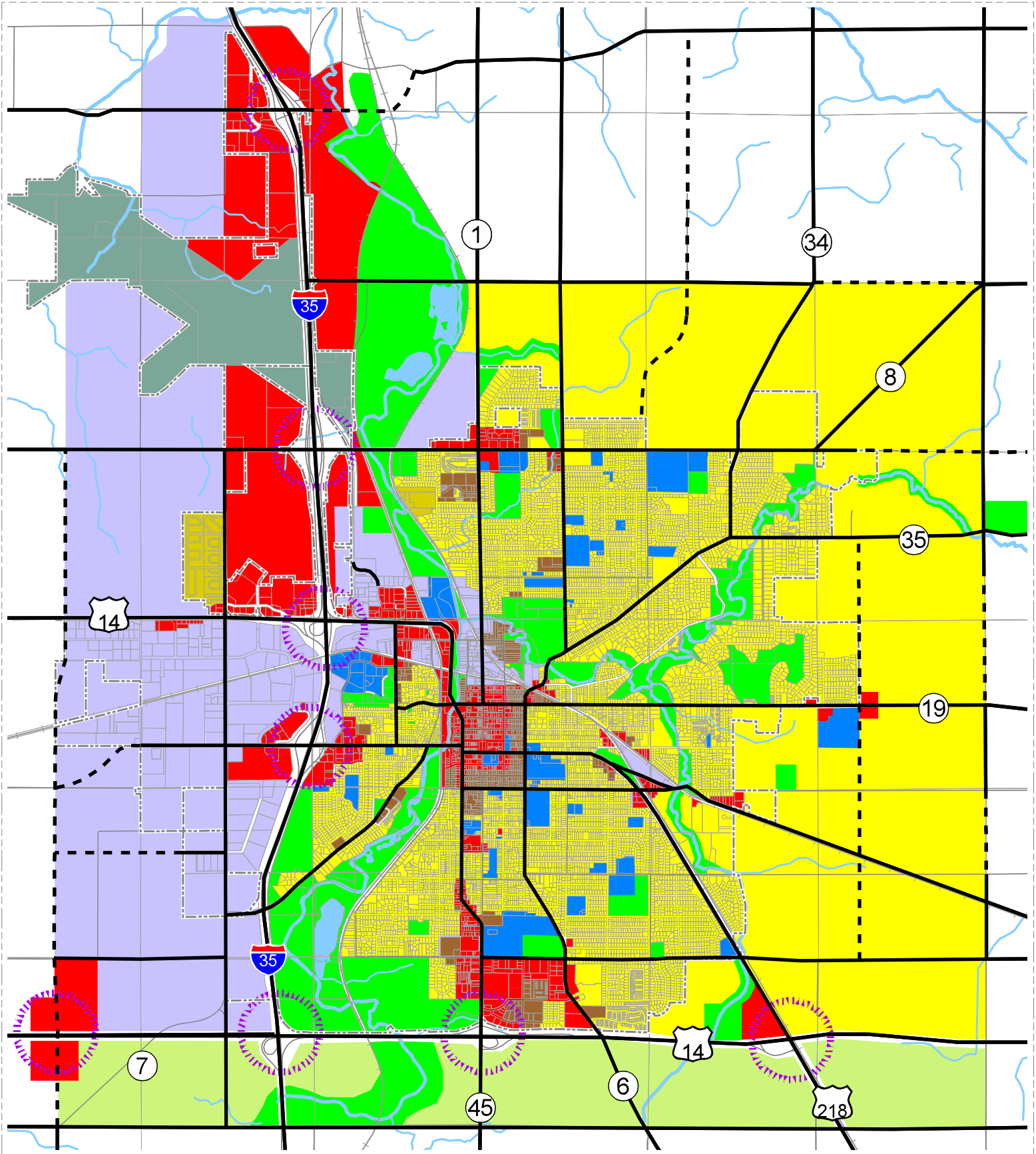
This request is a city initiated preliminary and final plat. The preliminary and final plat is for a single lot subdivision, located at the SE corner of 3rd Avenue SW and 22nd Street Northwest, parcel number 17-004-1404.

The purpose of the request is to address property boundary discrepancies and provide clarification through the platting process.

Zoning Map
285 22nd Street NW

Exb A





Development Plan City of Owatonna, Minnesota

- City Boundary
- Highway Intersections
- Major Transportation Corridors
- Future Transportation Corridors
- Railroad
- Low Density Residential
- High Density Residential
- Mobile Homes

- Commercial
- Industrial
- Park/Open Space
- Public/Institutional
- Airport
- Agricultural
- Open Water

2,000 0 2,000 4,000 6,000 Feet



Proposed Ordinance No.
ORDINANCE NO. ____

AN ORDINANCE AMENDING ORDINANCE NO. 157,
OWATONNA ZONING ORDINANCE

WHEREAS, the owner of the hereinafter described lands has made application for a change in zone classification for said lands and public hearing has been held according to the provisions of Section 157.098, of Ordinance No. 157, and the Planning Commission of the City of Owatonna has recommended the change in zone classification as requested.

THE CITY COUNCIL OF THE CITY OF OWATONNA DO ORDAIN:

SECTION 1. Ordinance No. 157, Zoning Ordinance, is hereby amended so that the zoning map that is thereby incorporated by reference shall be changed as follows:

1. Pursuant to Application No. RZ-7 filed with the City of Owatonna, Minnesota, to change the zone classification, and after public hearing, held May 14, 2024, said application is hereby approved and the zone classification is hereby changed from R-1 Single Family Residential to R-6 High Density Residential for the following described property:

To be platted as Lot 1, Block 2, Cashman Addition No. 3, and to the centerline of all adjacent rights of way, of Owatonna, Steele County, Minnesota.

SECTION 2. Effective Date. This ordinance shall be in full force and effect from and after its passage and publication.

Passed and adopted this 4th day of June, 2024, with the following vote:

Aye _____; No _____; Absent _____.

Approved and signed this _____ day of _____, 2024.

ATTEST:

Thomas A. Kuntz, Mayor

Kris M. Busse, City Administrator/City Clerk

May 10, 2024

To: Planning Commission
From: Community Development Department
RE: Application No. RZ-7, City of Owatonna, a request to rezone the subject property from R-1 Single Family Residential to R-6 High Density Residential District for the purposes of residential redevelopment for the subject property to be addressed 285 22nd St NW.

Application Review:

PIN: 17-004-1404
Now referred to as “subject property”

Applicant: City of Owatonna
Now referred to as “applicant”

Owner: City of Owatonna

Legal Description: To be platted as lot 1, block 1, Cashman Addn No. 3

Existing Zoning: R-1 Single-Family Residential District

Existing Land Use: The property is currently vacant

Adjacent Zoning & Land Uses: *North:* Low density residential zoned R-1; separated by 22nd Street NW
South: High density residential zoned R-6
East: High density residential zoned R-6
West: Mobile home zoned MH, mobile home park; separated by 3rd Avenue NW

Site Area: 0.56 acres

Location: 22nd Street NW and 3rd Avenue NW to the west

Report Attachments:

1. Application Materials
2. Location Maps (aerial and site)
3. Zoning map
4. Future land use map

Proposed Development

- Application No. RZ-7, City of Owatonna, now referred to as “applicant”, requests to rezone the subject property from R-1 Single Family Residential to R-6 High Density Residential for the purposes of residential redevelopment.
- This is a City of Owatonna initiated rezoning request, to be platting as lot 1, block 1, Cashman Addition No. 3, to be addressed 285 22nd St NW.

- The purpose for the rezoning request is to facilitate residential redevelopment of this vacant parcel.
- The proposed multi-family project will need to go through all permit approvals prior to commencing construction.
- It is likely that a variance will be needed to facilitate the redevelopment of this parcel to meet setback requirements for certain housing types.
- The rezoning of this parcel would make the development in harmony and within community context of the existing block and adjacent properties (east, south, and west).

Alignment with the Comprehensive Plan

The 2006 Future Land Use Plan identifies this parcel as low density residential. The surrounding parcels within this block (east and south) are identified as high density residential on the future land use map.

An assumption for the low density residential classification may have been due to the vacant status of the parcel, when the surrounding future land uses are HDR. The future land use plan viewed this parcel on its own, as opposed to evaluating the larger neighborhood and development potential. Therefore, staff believe the proposal to be in general harmony with the future land use map.

Compatibility with Surrounding Land Uses

The parcel is currently vacant and situated next to high density residential parcels (east and south) and mobile home to the west. The single-family zoning and low-density land use future designation would impact the built form and scale of the neighborhood if a single-family home was approved to be constructed.

The proposal to rezone to R-6 High Density Residential is in alignment with surrounding uses of adjacent properties. Staff believe the rezoning is compatible with the existing neighborhood.

R-6 High Density Residential District Regulations

The request meets minimum lot sizes and yard requirements for the R-6 zoning.

The rezoning, and correlating assigned zoning district, offers different residential development types. *157.020 residential district use chart* allows 3-4 unit multifamily, 5-12 unit multi-family, multi-family (over 12 units), townhouses, and two-family dwellings.

Findings of Fact

1. The City of Owatonna is the “applicant” and “owner” properly applied for the rezoning for the subject property.
2. That the requested rezoning designation for the subject property is R-6 High Density Residential.
3. The rezoning is compatible with the existing neighborhood because the surrounding parcels (east, south, and west) have existing land uses as higher density residential.
4. That the properties to the east and south have a future land use of high density residential. These properties are located within the same block.
5. The R-6 High Density Residential zoning district includes a range of medium and high density housing typologies such as two-family dwellings, townhomes, 3-4 unit, 5-12 unit, multifamily over 12 units.

6. The purpose of the zoning establishment is to make this parcel in harmony with the surrounding parcels.

Recommendation

Staff recommends **approval** of the rezoning of Lot 1, Block 1, Cashman Addition No. 3, from R-1 Single Family Residential to R-6 High Density Residential based on findings of fact.

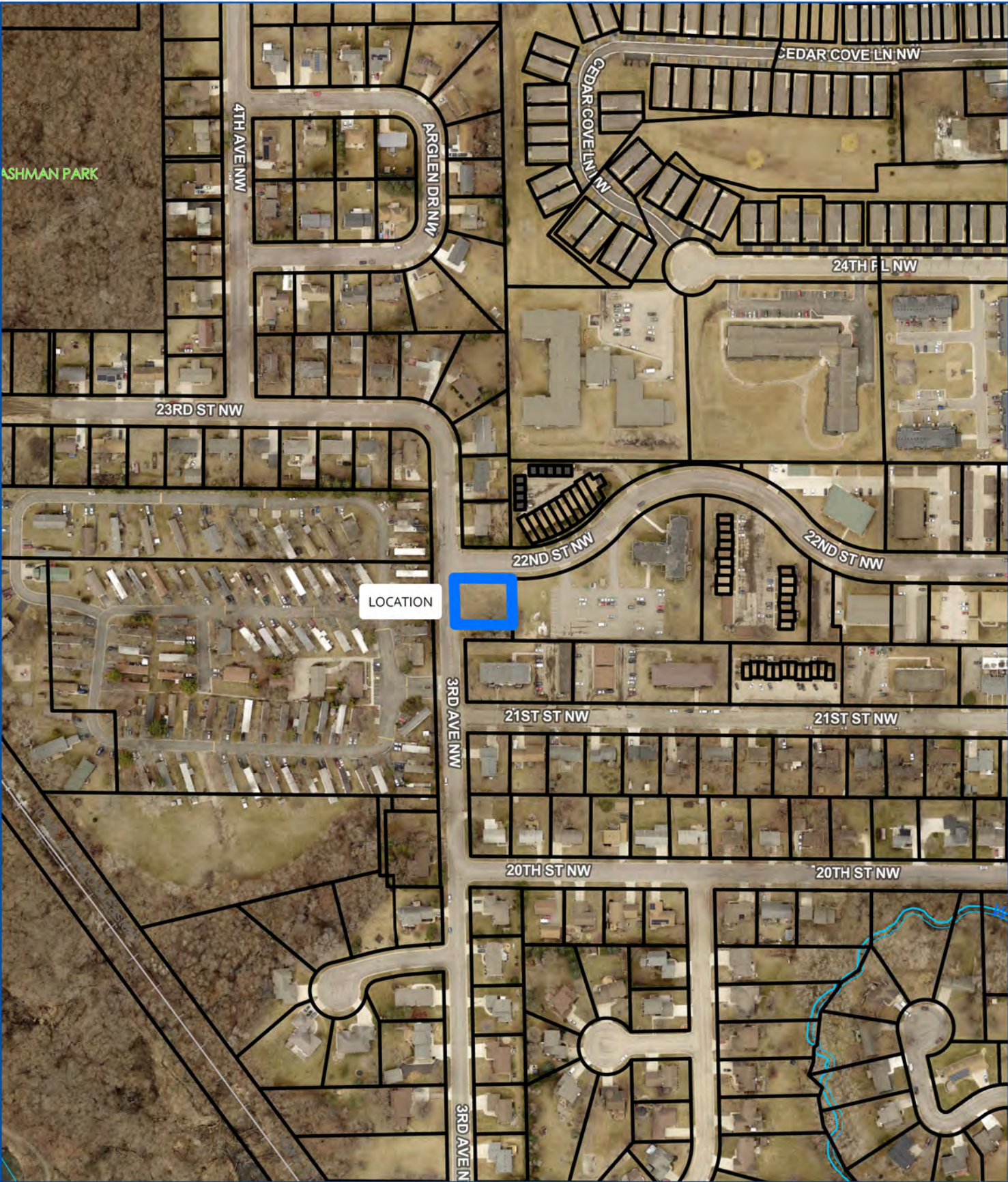
Planning Commission Minutes

Application No. RZ-7, which is a request by the City of Owatonna to rezone the subject property from R-1 Single Family Residential District to R-6 High Density Residential District for the purposes of residential redevelopment for the subject property to be addressed 2285 22nd Street NW, was presented by Planning Specialist Ashley Zidon. (Refer to report on file.) Public hearing opened at 5:45 pm. No comments were made regarding this request. Public hearing closed at 5:46 pm. Effertz said this makes sense. A motion was made by Effertz and seconded by Springer-Gasner to recommend approval of this rezoning of Lot 1, Block 1, Cashman Addition No. 3 from R-1 Single Family Residential District to R-6 High Density Residential District based on findings of fact.

All Commissioners voting Aye, the motion carried.

Location Map - 285 22nd Street NW
City of Owatonna

Exb A



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April 30, 2024



PRELIMINARY PLAT CASHMAN ADDITION NO. 3
PART OF THE NE1/4 OF THE NE1/4 OF SECTION 4-T107N-R20W
OWATONNA, STEELE COUNTY, MINNESOTA

LEGAL DESCRIPTION

All that part of the Northeast Quarter of Section 4, Township 107 North, Range 20 West described as follows:

Beginning at the southwest corner of the Northeast Quarter of the Northeast Quarter of said Section 4, thence South 10 rods, thence East 9 rods, thence North 10 rods, thence West 9 rods to the point of beginning.

STREET ADDRESS

285 22ND STREET NW
OWATONNA, MN 55060

Zoned: R-1

Single Family Residential

Setbacks:

Front Yard = 30

Side Yard = 10

Rear Yard = 30

AREA

Gross 0.56 ACRES±

PROPOSED LOT AREA

0.31 ACRES±

OWNER

City of Owatonna

PHOTO FROM STEELE COUNTY GIS

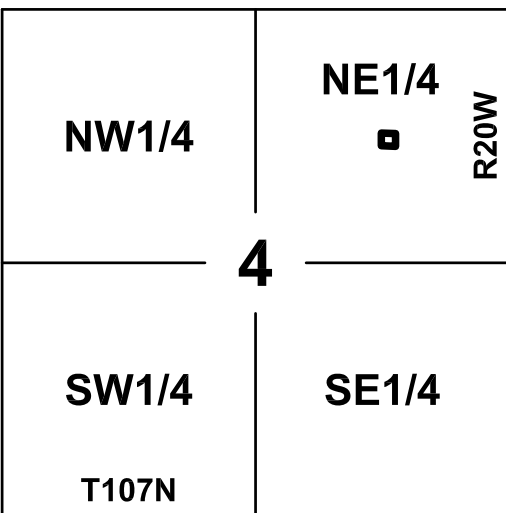


Some site improvements and topography may have been concealed by winter conditions at the time of survey.

LEGEND

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- = Iron monument-Found
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- TP = Telephone Pedestal
- CB = Catch Basin
- MS = Manholes & Manhole
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VICINITY MAP



Scale: 1"=2000'

BASIS OF BEARING SYSTEM

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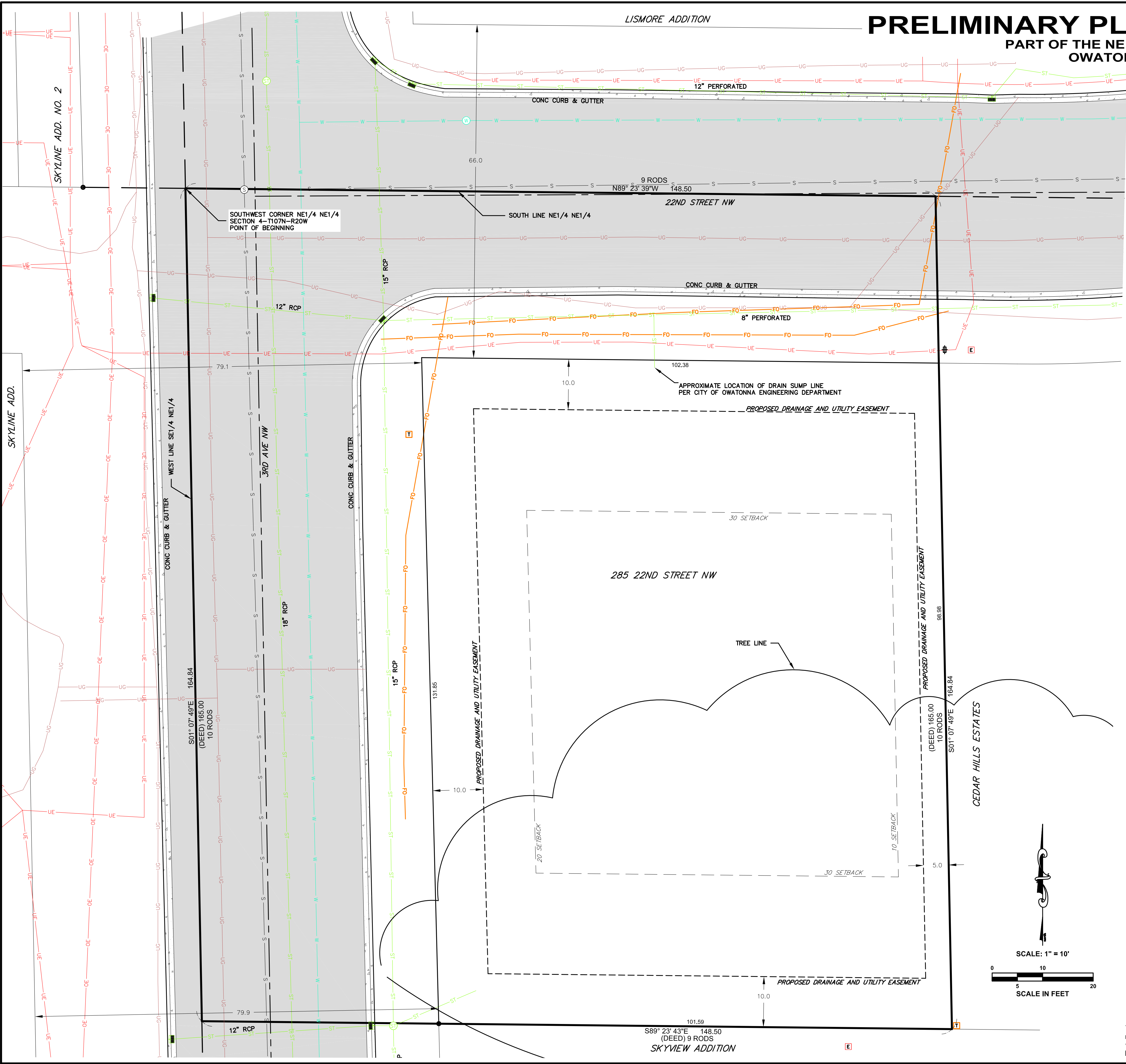
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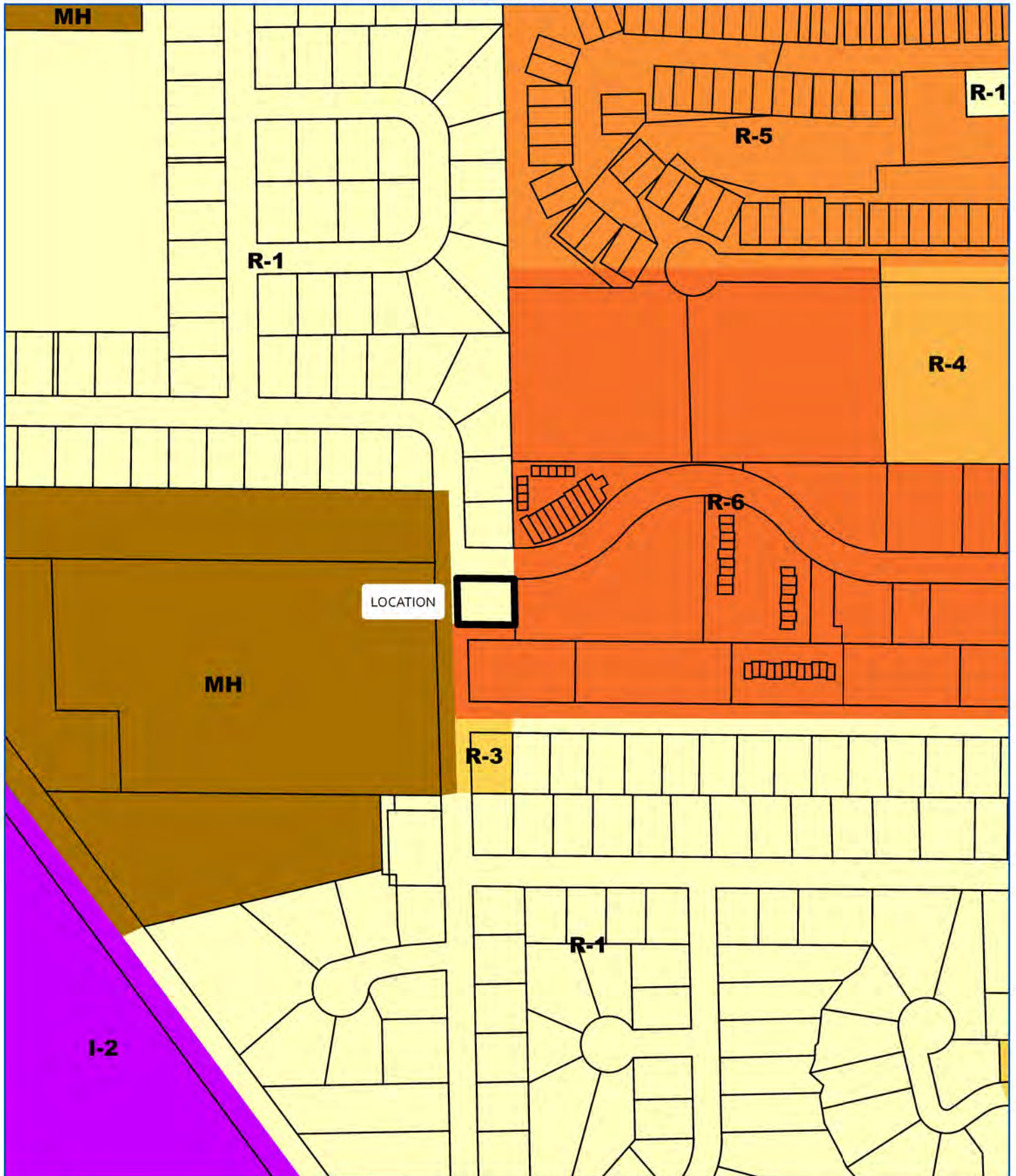
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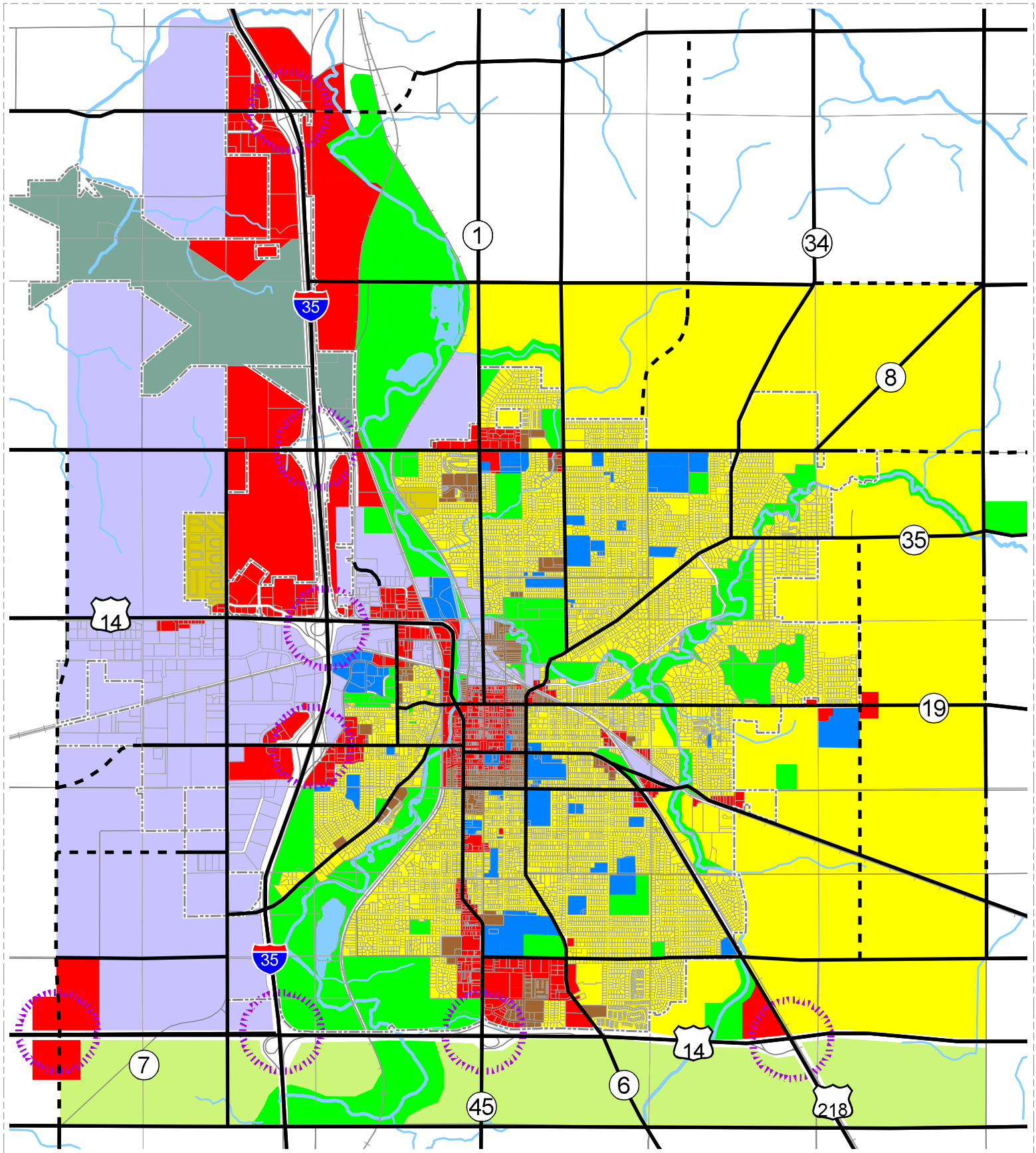
SHEET NO. 1 OF 1 SHEETS



Zoning Map
285 22nd Street NW

Exb A





Development Plan City of Owatonna, Minnesota

2,000 0 2,000 4,000 6,000 Feet



- City Boundary
- Highway Intersections
- Major Transportation Corridors
- Future Transportation Corridors
- Railroad
- Low Density Residential
- High Density Residential
- Mobile Homes
- Commercial
- Industrial
- Park/Open Space
- Public/Institutional
- Airport
- Agricultural
- Open Water





DATE: May 21, 2024
TO: Mayor and City Council
FROM: Kris Busse, City Administrator
SUBJECT: City Council Committee Structure

Purpose:

To approve an amended Council Committee Structure.

Background:

The City and County jointly owned the Law Enforcement Center (LEC) and created the LEC Committee consisting of city and county elected officials. The City purchased the LEC from Steele County on May 8, 2024. As a result, the LEC Committee is no longer necessary and should be disbanded.

The City Council wishes to establish an Executive Committee consisting of the Council President, Council Vice-President and a Council Member at Large. Current members serving on this new committee will be Council President Schultz, Council Vice-President Raney and Council Member at Large Boeke. Committee assignments are reviewed annually during the Annual Organizational Meeting held during the first City Council Meeting in January each year.

Budget Impact:

No budget impact.

Staff Recommendation:

Staff recommends approval.

Attachments:

None



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
SUBJECT: Project Scope Development and Communications for Public Safety Center & Community Center

Purpose:

Approve the ICS Professional Services Agreement #2 for the Scope Development and Communications for the Public Safety Center and Community Center initiatives.

Background:

The City is considering building a community center and updating the public safety buildings. The recent completion of the City's Facility Assessment and Facility Plan has shown the need for upgrades to the Public Safety facilities and a desire for a Community Center. ICS will provide professional services for phase one, which include project scope development, Local Option Sales Tax community ask, informational campaign, and public engagement. They will also create and facilitate Project Task Forces, develop a Comprehensive Communication Plan, assist with financial modeling and project viability, and support the Long-Range Asset Plan (LRAP).

The compensation for completing all the work is **\$142,250**. The amount billed for services will be based on ICS's estimate of the total number of services completed during the billing period. ICS anticipates the effort to break down as follows:

- 2024: \$42,750 (Communications support within LRAP) / Scoping of the Public Safety Center and Community Center.
- 2025: \$49,750 (Communications support within LRAP) / Scoping and Communications for the Community Center Local Option Sales Tax Request to MN Legislature.
- 2026: \$49,750 (Communications support within LRAP) / Communications for the Community Center Local Option Sales Tax Referendum.

The timeline is crafted around the current Local Option Sales Tax moratorium. The schedule could change if the MN Legislature lifts the moratorium and the City Council approves a schedule change.

As the agreement outlines, additional expenses for items such as concept drawings/renderings, architectural drawings, or promotional videos may exist. ICS will assist the City and facilitate RFP, review and selection processes for those services.

The agreement has been reviewed by the City Attorney.

Budget Impact:

The Phase One fee is **\$142,250**. This work was not included in the 2024 budget. However, there is an opportunity to re-prioritize a 2024 planned project with funding for this initiative and cover the remaining amount from the Building Maintenance Fund. The balance will need to be proposed in the 2025 budget.

2024: \$42,750

2025: \$49,750

2026: \$49,750

Staff Recommendation:

Staff recommends approval.

Attachments:

1. ICS PSA Scope Development and Communications



A LEGENCE Company

City of Owatonna

540 West Hills Circle, Owatonna, MN 55060



Professional Services Agreement #2: Scope Development & Communications for the Public Safety Center & Community Center

May 21, 2024



1331 Tyler Street NE, Minneapolis, Minnesota 55413
Ph: (763) 354-2670 / Fax: (763) 780-2866 / ics-builds.com

5/21/2024



Jenna Tuma
Director of Parks, Recreation and Facilities
540 West Hills Circle
Owatonna, MN 55060

1331 Tyler Street NE, Suite 101
Minneapolis, MN 55413
ics-builds.com
(763) 354-2670

Re: City of Owatonna

Professional Services Agreement #2 (PSA #2) for:

- Communications Support of the Long-Range Asset Plan (LRAP) Efforts
- Project Scoping for: Public Safety Center
Community Center

Dear Jenna:

Per discussion at the April 17, 2024, Government Buildings Steering Committee meeting, ICS is pleased to provide you with this letter of understanding and proposal to supplement staff communications support of the Long-Range Asset Plan (LRAP) efforts and project scoping for the Public Safety Center and Community Center.

We will work collaboratively with the city council, city staff, and the Government Buildings Steering Committee in implementing this work. The goal of these efforts is to provide the City of Owatonna with project scoping efforts and communications support related to the LRAP. Additionally, we will facilitate project scoping related to the Public Safety Center and Community Center for city council consideration.

We would be happy to discuss this proposal with you and city leadership for clarity and understanding when you see appropriate. Thank you for your consideration and we look forward to continuing our working relationship with the City of Owatonna in completing these services.

Please do not hesitate to contact me with any questions.

Sincerely,

Michael Piper
Business Development Specialist
ICS

CC: File
Chris Ziemer, ICS



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I. Introduction.....	4
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Professional Services Agreement #2

City of Owatonna

I. Introduction

The City of Owatonna ("Client"/"City") and ICS Consulting, LLC ("ICS") collectively ("Parties") enter into this Professional Services Agreement #2 (PSA #2) to provide project scoping and communications support of the Long-Range Asset Plan (LRAP) including further development of the Public Safety Center and Community Center. Our services include providing the level of effort and expertise needed to deliver this scope.

Our services include the following:

II. Phase I – Staff Engagement and Facility Assessment

Staff engagement and Facility Assessment services have been completed under Professional Services Agreement #1 (PSA #1) and will serve as the starting point for PSA #2 efforts. It is expected that a deeper dive will be required as it relates to current facilities being studied as follows:

- Public Safety Center: LEC and Fire Hall
- Community Center: Senior Center, Tennis Center, Vevle Hall, Merrill Hall, Building 11C

If it is determined that additional assessment of facilities is required beyond the information not covered in the current assessment. ICS will provide the City with a proposal to complete this work.

III. Phase II – Communications Support & Scope Development

Utilizing the report generated from the Data Gathering and Analysis effort performed as a part of PSA #1 scope, ICS will assist the City of Owatonna to develop identified project scopes and provide communications support related to the LRAP, selected project scope development and Local Option Sales Tax opportunities. These services include the following:

1.0 Communications Support within the LRAP, Scope Development, and Local Option Sales Tax Ask and Informational Campaign

- 1.1 ICS w/ Rapp Strategies Inc. (as subcontractor to ICS) will partner with the City of Owatonna staff to support communications efforts to:
 - 1.1.1 Develop a cohesive plan through data-driven information and an engagement (staff and community) process.
 - 1.1.2 Create a comprehensive and informational communications plan as it relates to the scope that falls under the LRAP, identified project scope development, and Local Option Sales Tax (ask of the MN Legislature and public referendum)
 - 1.1.3 Successfully plan and execute public outreach and community engagement strategies specific to the City's needs.
- 1.2 Communications Overview
 - 1.2.1 Comprehensive Communication Plan support broken down as follows:
 - 1.2.1.1 **Planning Phase:**
 - 1.2.1.1.1 Identify the City's challenges, the process to identify those, and the impact on the community.
 - 1.2.1.1.2 Develop a Community Engagement Plan as an integrated element of the Comprehensive Communication Plan.

- 1.2.1.2 **Engagement Phase:**
 - 1.2.1.2.1 Identify and engage key community stakeholders.
 - 1.2.1.2.2 Host initial public meetings and forums.
- 1.2.1.3 **Education Phase:**
 - 1.2.1.3.1 Develop and distribute communications materials (website, fliers, posters, mailers, media commentaries and more).
- 1.2.1.4 **Acceleration Phase:**
 - 1.2.1.4.1 Begin driving people to where they can find information (mailers, media commentaries, presence at public events, etc).
- 1.2.1.5 **Outcome Phase:**
 - 1.2.1.5.1 Share information on the plan and how to vote using various tools to distribute the message (website, mailers, media commentaries, community events and activities).
- 1.2.2 City microsite/website support and content creation (See 1.3.2) for optimum community engagement.
- 1.2.3 Creation and distribution of scientific and non-scientific surveys to help obtain critical information from the public on project scope, how much they are willing to support, etc.
 - 1.2.3.1 ICS will utilize Thought Exchange in conducting internal and external surveys.
 - 1.2.3.2 Other survey tools may be utilized as needed, including utilizing subcontractors who specialize in creating scientific surveys and polling. If additional survey tools beyond Thought Exchange are deemed necessary to obtain scientific results from surveys and polling, ICS will present the City of Owatonna the cost associated with these additional services for approval by the City Council.
- 1.3 Referendum (Local Option Sales Tax) Communications will include the following:
 - 1.3.1 ICS and Rapp Strategies (subcontractor of ICS) specifically acknowledges that City of Owatonna is subject to Minn. Stat. §297A.99, subd. 1(d) and ICS and Rapp Strategies agree that all work contemplated by this agreement will be subject to Client's review and final approval prior to publication so that the City of Owatonna may ensure compliance with the statute and other law.
 - 1.3.2 Core messaging for user by staff and council members
 - 1.3.3 Dedicated website design (microsite) design and content including the following framework:

- 1.3.3.1 **Home:** The home page serves as the initial interface for community residents to access information about the referendum. This page will include the referendum campaign logo, a brief site synopsis, and simple navigation to other pages.
- 1.3.3.2 **The Process:** This page would outline the City's plan development steps. This information gives community members a better understanding of how the city has carefully reviewed all options before asking local voters to consider the proposed plan.
- 1.3.3.3 **Our Challenges:** This page would outline the City of Owatonna's challenges or facility needs. Pictures, written copy, testimonials, and more would be used to communicate needs.
- 1.3.3.4 **The Plan:** One of the most frequented pages on any microsite, the plan page would include specifics for the proposed plan. Conceptual drawings, other visuals, and plan-specific Frequently Asked Questions (FAQ's) are helpful for this page. This page would also include information highlighting the consequences of inaction for the plan. This information would outline what improvements would (and would not) be implemented if the proposed referendum fails.
- 1.3.3.5 **The Impact:** This page would outline the proposed plan and how it impacts staff and community members.
- 1.3.3.6 **The Cost:** This page would outline the costs of the proposed plan, including information about assessed value, implied market value, and, ultimately, the cumulative taxpayer impact proposed from the financing plan.
- 1.3.3.7 **Voting Information:** This page would provide comprehensive information for casting your vote on the referendum, including voting in person by absentee ballot before Election Day or in person on Election Day.
- 1.3.3.8 **Resources:** This page will provide various resources and links for community members, including previous presentations to the community, survey results, the approved resolution, the ballot language, videos, newspaper articles submitted and published, and more. Consider this page as the reference library for the projects.
- 1.3.3.9 **Frequently Asked Questions (FAQ's):** This page will expand on the other microsite pages and provide answers to community members' Frequently Asked questions, and will be frequently updated based on feedback from the community.

1.3.3.10 **Content:** This page allows residents to submit their questions and/or feedback by completing a short online form. Our team would receive these submissions, craft proposed responses, provide that draft to the City's team to review, and ultimately, the City would respond directly to that community member.

- 1.3.4 Referendum campaign logo creation and graphics
- 1.3.5 Newspaper articles and advertisements
- 1.3.6 Internal e-blasts
- 1.3.7 Social media and communications deliverables through City channels (written copy, graphics, scheduling and analytics)
- 1.3.8 Referendum handbook
- 1.3.9 Presentations for community groups
- 1.3.10 Printed collateral including fliers, mailers, poster boards, etc.

2.0 Creation and Facilitation of Project Task Force Groups

2.1 ICS will assist the City staff in the creation of Project Task Force Groups for the following projects:

- 2.1.1 Public Safety Center
- 2.1.2 Community Center

2.2 Project Task Force Groups will consist of the following representation:

2.2.1 Public Safety Center Task Force

2.2.1.1 City Council (3 representatives)

2.2.1.2 Representation from city departments including, but not limited to the following:

2.2.1.2.1 Fire Department (2 representatives)

- Fire Chief
- One (1) additional staff member appointed by Fire Chief

2.2.1.2.2 Police Department (2 representatives)

- Police Chief
- One (1) additional staff member appointed by Police Chief

2.2.1.2.3 City Administration (1 representative)

2.2.1.2.4 Finance Department (1 representative)

2.2.1.2.5 Community Development (1 representative)

2.2.1.2.6 Additionally, the Public Safety Center Task Force Group will have two (2) sub-groups representing the following departments:

2.2.1.2.6.1 Fire Department (FD) User Group (4-6 FD staff)

2.2.1.2.6.2 Police Department (PD) User Group (4-6 PD staff)

2.2.1.3 ICS representation and sub-consultants

2.2.1.3.1 Rapp Strategies as needed

2.2.1.3.2 Other: TBD

- 2.2.2 Community Center
 - 2.2.2.1 City Council (3 representatives)
 - 2.2.2.2 Representation from City departments including, but not limited to the following:
 - 2.2.2.2.1 Selected City staff - TBD
 - 2.2.2.2.2 Parks, Recreation and Facilities (2-3 reps.)
 - 2.2.2.3 ICS representation and sub-consultants
 - 2.2.2.3.1 Rapp Strategies as needed
 - 2.2.2.3.2 Other: TBD
 - 2.2.2.4 Community Member/Organization Representation
 - 2.2.2.4.1 Representation to be as follows:
 - 2.2.2.4.1.1 Owatonna Public Schools (1)
 - 2.2.2.4.1.2 Steele County (1)
 - 2.2.2.4.1.3 Park Board Members (1-2)
 - 2.2.2.4.1.4 Community Members
 - Business Leaders – TBD
 - Non-Profit Leaders – TBD
 - Chamber/Tourism Representative - TBD
 - 2.2.2.4.1.5 Associations – TBD
 - 2.2.2.4.1.6 Others to be identified as needed.

- 2.3 The Project Task Force Groups will be responsible for the following:
 - 2.3.1 Available to attend bi-weekly (or as needed) meetings to perform the assigned tasks of the Project Task Force.
 - 2.3.2 Evaluating existing facilities utilized for the current identified programs and identify where needs are being met and deficiencies that are hindering daily operations.
 - 2.3.3 Attending tours of existing facilities to see how other communities have addressed identified needs.
 - 2.3.4 Provide input and feedback on scenarios created to address current and future identified needs.
 - 2.3.5 Appoint a representative to assist in presentations to the Steering Committee and City Council.
 - 2.3.6 Make recommendations of a final proposed project scope to the Steering Committee.

3.0 Deliverables:

- 3.1 A Comprehensive Communications Plan to continue communicating progress and status of efforts in developing project scope through project approval. This plan will:
 - 3.1.1 Assist City staff in communicating the goals and outcomes of the LRAP.
 - 3.1.2 Assist City staff in communicating the process related to the scoping effort for the following projects:
 - 3.1.2.1 Public Safety Center
 - 3.1.2.2 Community Center
 - 3.1.2.2.1 Communications will also include the process for the City's request to the appropriate state agency and authority for a Local Option Sales Tax

3.2 Project scope identifying space programming to meet the current and future needs of the identified facility and corresponding scenarios with diagrams, budget estimates and corresponding initial phasing/schedules for the following projects:

3.2.1 Public Safety Center

3.2.2 Community Center

3.3 Presentations of the Task Force Groups' work culminating with recommended project scopes, budgets and timelines for City Council consideration.

Deliverables NOT Included:

3.4 Other assessments and surveys for projects outside of the identified scope are **NOT** included.

3.5 Other survey tools (as identified in 1.2.3.2) utilizing subcontractors who specialize in creating scientific surveys and polling are **NOT** included.

3.6 Traveling, creating, filming and editing videos to support communications efforts are **NOT** included.

3.7 Renderings and/or scale models are **NOT** included.

3.8 Full architectural and engineering drawings are **NOT** included.

3.9 In the event that it is determined that renderings, scale models, and full or partial architectural/engineering drawings are required to provide information necessary to further develop project scopes and/or aid in effectively communicating project scope to the public, ICS will facilitate the following process:

3.9.1 Prepare a Request for Proposal (RFP) to be distributed to architectural firms that are competent in the project type.

3.9.1.1 ICS and select city staff will create a list of firms that are considered competent in the project type. The RFP will be submitted to this initial list of firms.

3.9.2 Review and score responses to the RFP with select city staff to create a short list of firms to be interviewed.

3.9.3 Facilitate interviews of the selected firms which will include:

3.9.3.1 Creation of a list of questions and scoring system to assist the City of Owatonna in interviewing the selected firms.

3.9.3.2 Participate as the City's partner in interviewing selected firms.

3.9.3.3 Conduct a post interview meeting to review scoring and feedback from the City's interview team and select the firm that the City would like to work with.

3.9.4 The selected firm will be pulled under ICS's umbrella of services and execute a contract directly with ICS.

3.9.5 The selected firm, as a subcontractor of ICS, will provide the necessary renderings and/or full/partial architectural and engineered drawings as needed during the process.

3.9.5.1 These services will be considered additional services that ICS and the City of Owatonna will negotiate in good faith on associated fees.

4.0 Expectations of City Staff and Elected Officials to Maintain the Proposed Timeline

- 4.1 The following sets an expectation of City staff and elected officials to maintain the proposed project timeline:
 - 4.1.1 Engagement and responsiveness from the City of Owatonna, including a regular cadence of communication meetings and reviewing various deliverables such as key messages, website content, fliers, and more. In addition, we expect timely responsiveness when it comes to emails, questions, phone calls, etc.
 - 4.1.2 Commitment and participation of those individuals who have either volunteers or have been nominated for participation in a Project Task Force Group.
 - 4.1.3 Access to a variety of assets to be distributed to ICS. These items include a brand guide and logos, photos to use across a variety of deliverables, access to social media platforms, and more.
 - 4.1.4 In our experience, we have found Google Drive to be the most effective way to share and edit documents across multiple parties. This reduces the potential for multiple versions of various documents and allows everyone to edit content simultaneously through the process. If possible, we expect the city to use Google Drive and the folders we set up as part of the overall campaign.
 - 4.1.5 We expect the City to aid us in executing communications to a certain level. As a part of our services, we will do everything in our power to execute communications for the City's Local Option Sales Tax referendum. However, a few items, such as coordination with the local media and sending out internal emails, will need to be completed by city staff. We will aid the City in writing newspaper articles and internal emails but sending them to the appropriate parties will be completed by the City. We will do our best to limit the number of additional items that City staff are responsible for, as our goal is to serve as your advocate and partner through the entire process.
- 4.2 The City will provide financial information (whether internally through the Finance Department and/or the City's financial advisor (Baker Tilly) to determine viability of financing and tax impact of proposed solutions on the residents of Owatonna. Items may include, but are not limited, to the following:
 - 4.2.1 Sources of revenue available to the City of Owatonna to fund identified project scenarios.
 - 4.2.2 Tax impacts of identified project scenarios and strategies to minimize tax impacts by strategically layering of existing debt.
 - 4.2.3 Duration of financing and associated costs that need to be accounted for in project scenarios.
 - 4.2.4 Other relevant financial information that can be used to formulate scenarios for city council consideration.
- 4.3 Commitment of allocated staff time for meeting and presentation opportunities at City Council meetings and study sessions

IV. Implementation
Schedule

ICS will work with City staff to commence work upon acceptance of this proposal and will complete the steps described in a timely fashion over the proposed project timelines (see Appendix C). ICS has the bandwidth to begin completing this work upon approval.

V. Basis of
Compensation

Compensation for completion of all work as described above is proposed as a lump sum amount of **\$142,250**. The actual amount billed for ICS's services monthly will be based on ICS's estimate of the proportion of total services completed during the billing period.

We anticipate the effort to break down as follows:

- 2024: \$42,750 (Communications support within LRAP) / Scoping of the Public Safety Center and Community Center)
- 2025: \$49,750 (Communications support within LRAP) / Scoping and Communications for the Community Center Local Option Sales Tax Request to MN Legislature
- 2026: \$49,750 (Communications support within LRAP / Communications for the Community Center Local Option Sales Tax Referendum)

Note: The schedule above is based on the overall preliminary project timelines for the Public Safety Center and Community Center (see Appendix C) which is built around our understanding of the current moratorium on Local Option Sales Tax (LOST) put in place by the 2023 MN Legislature. If MN Legislature lifts the moratorium, and upon City Council approval, we would accelerate the effort to ensure the City of Owatonna is prepared to have their Local Option Sales Tax ask ready to submit for consideration by the appropriate state agency and authority.

Reimbursable expenses (i.e., mileage, reproduction, printing, postage, etc.) will be billed in addition to the fee noted above at 1.25 (125%) x actual cost.

For project work beyond the services outlined in this proposal and/or any changes to the agreed upon scope of services or project duration, services will be billed on a time and materials basis in addition to the above noted fees. However, additional work will not be conducted without approval by the City of Owatonna.

Implementation (Design & Construction Management) Phase:

Development of any solutions or project scopes to be implemented may begin immediately following City Council approval of this agreement. As the Owner's partner, ICS may utilize the services of subconsultants. The City will have the right to reject the selection of these or any sub-consultants. It is the City's intent to utilize ICS for implementation services as described below:

Professional Services (Design & Construction Management):

Upon development of the final project scope and schedule, ICS proposes to provide services under the Program Management model (Management, Design & Construction Management) with compensation to be structured as a lump sum fixed fee. Our role during this phase of the process would be to serve as the City's program manager to implement design and provide construction management services and project commissioning.

Professional services do not include competitively bid construction contracts. Construction contracts will be entered into by the City directly with contractors utilizing Minnesota state statutes for competitive bidding requirements.

Compensation:

It is the intent of both parties that fees for services for the plan implementation, if the City proceeds forward with projects as a result of the process, will be negotiated by both parties. ICS and the City will utilize standard AIA contract documents as the basis of the contacts, and both parties agree to negotiate in good faith for final fee percentages and terms and conditions based on the final scope of work established under this Professional Services Agreement. Refer to Appendix C for industry standard fee ranges.

VI. Acceptance

If this proposal is acceptable, please authorize us to proceed by signing a copy of this document (Appendix B) and returning it to ICS. We will proceed with our scope of work upon receipt of your signed proposal. Thank you for your consideration of this proposal. We look forward to continuing our relationship with the City of Owatonna to complete the identified communications support and project scoping efforts for the City of Owatonna.

Appendix A

General Conditions

General Conditions

1. Agreement:

This is an agreement ("Agreement") between City of Owatonna ("Client"), and ICS, LLC (ICS), collectively, the "Parties." This Agreement includes (1) the Project Proposal ("Proposal") attached; (2) these General Terms and Conditions, Exhibit A; (3) Signature Page, Exhibit B; (4) Preliminary Project Timelines, Exhibit C; and (5) Communications Hierarchy & Task Force Organizational Structure, Exhibit D; and (6) Communications Roles & Responsibilities Matrix, Exhibit E; and (7) Billing Rates, Exhibit F; and (8) Notification of Equal Employment / Affirmative Action Compliance, Exhibit G. This Agreement represents the entire and integrated agreement between the Parties and is exclusive of and supersedes all other agreements between the Parties, either oral or in writing. If any term or provision of this Agreement is found to be invalid under applicable law, that provision shall be deemed omitted from the Agreement and the remainder of the Agreement shall remain in full force and effect.

2. Professional Services:

The Client engages ICS to provide professional project services ("Professional Services") in connection with the project at the Client's location ("Project") described in the Proposal's Scope of Services. Other services mutually agreed upon by the Parties ("Other Services") not specifically described in the Proposal shall be (1) governed by this Agreement, (2) identified in an amended Scope of Services, and (3) the Client agrees to pay ICS for such Other Services as additional compensation in accordance with ICS 's Fee Schedule attached as Exhibit C.

3. Work Product:

Professional Services under this Agreement, including, but not limited to, all drawings, reports, information, recommendations, opinions or other work product prepared or issued by ICS, are for the exclusive use and benefit of the Client in connection with the Project. The work product is not intended to inform, guide, or otherwise influence any other entities or persons, and should not be relied upon by any entities or persons other than the Client and its agents for any purpose other than for the Project. The Client will not distribute, convey or disclose ICS's work product to any other persons or entities without ICS's prior written consent. Written consent shall include an express release of ICS from all liability to the third party receiving the work product from Client, and the Client's indemnification of ICS for any claims or demands asserted against ICS by such third party. All documents produced by ICS under this Agreement shall remain the property of ICS and may not be used by the Client for any other project or purpose without the prior written consent of ICS.

4. Payment:

The Client shall pay ICS's invoices within thirty (30) days of the date of the invoice. Invoices shall be considered past due if not paid within 30 days after the invoice date. If the Client does not tender payment within 30 days of the invoice date, ICS may, without waiving any claim or right against the Client, and without liability to the Client, terminate this Agreement in accordance with Section 11(a) of this Agreement. Retainers shall be credited on the final invoice. ICS, at its sole discretion, may charge interest at 1.5% (or the applicable legal rate) per month on the unpaid balance. In the event any portion of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

5. Standard of Care:

ICS will strive to perform the Professional Services in a manner consistent with that level of care and skill ordinarily exercised by members of ICS's profession practicing in the same locality under similar circumstances at the time the Professional Services are performed. This Agreement creates no other representation, warranty, or guarantee, expressed or implied. ICS hereby excludes and disclaims any and all implied warranties including, but not limited to, any implied warranty of fitness for a particular purpose and any implied warranty of merchantability.

6. Limitation of Liability:

Except as otherwise provided in this Agreement, in no event shall the Parties be liable to one another for any indirect, consequential, incidental, lost profits or expectation damages.

7. Insurance:

Insurance Provided by Consultant. Before the start of its work, the Consultant shall procure and maintain in force coverage and limits of insurance for its own negligence as follows:

- | | |
|---------------------------------|---------------------------------|
| (a) Workers' Compensation: | Statutory |
| including Employers' Liability: | |
| (b) General Liability: | \$2,000,000.00 Occurrence; |
| | \$4,000,000.00 Aggregate |
| (c) Automobile Insurance: | \$1,000,000.00 Liability. |
| (e) Umbrella Liability: | \$1,000,000.00 Occurrence; |
| | \$1,000,000.00 Aggregate |
| (f) Professional Liability: | \$5,000,000.00 Each Claim; |
| | \$5,000,000.00 Annual Aggregate |

8. Client Responsibilities:

The Client shall bear sole responsibility for (a) notifying third parties, including any governmental agency or prospective purchaser, of the existence of any hazardous materials located in or around the Project site; and (b) cooperation with all requests by ICS, including obtaining permission for access to the Project site. The Client releases and discharges ICS from all liability for any incorrect advice, judgment, or decision based on inaccurate information furnished by the Client or others. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the Project site, ICS shall immediately stop work in the affected area and promptly report the condition to the Client.

9. Hazardous Materials:

It is acknowledged by both parties that ICS scope of services does not include any services related to asbestos, hazardous, or toxic materials that may be encountered or found to be present at or in areas adjacent to the site. Any such materials that are encountered shall be immediately brought to the attention of the owner, who will be solely responsible for any required abatement and/or removal of the materials in full compliance with applicable laws and regulations.

10. Dispute Resolution:

Any claim or dispute between the Parties arising out of or related to this Agreement shall first be informally negotiated in good faith between the Parties. If the claim or dispute cannot be amicably resolved within thirty (30) days by good faith negotiation, the Parties shall jointly submit the claim or dispute to mediation. Mediation shall be through a mediator agreed upon by the Parties, or if the mediator cannot be agreed upon within 15 days after the party seeking mediation provides written notice upon the other party to the Agreement demanding mediation, a mediator shall be appointed by the district court in the jurisdiction in which the Project is located. Demand for mediation shall be provided in writing to the other party to the Agreement within a reasonable time after the claim or dispute has arisen. In no event shall the demand for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statutes of limitation or repose. If the claim or dispute cannot be amicably resolved by good faith negotiation or mediation, then either party may exercise its rights under law. In no event shall a claim or dispute be made or sustained if it would be barred by the applicable statute of limitations or repose.

11. Termination:

- a. This Agreement may be terminated upon than seven (7) business days' prior written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. Upon termination, ICS will deliver to the Client or its designee all records, documents or materials in its possession or control of ICS which relate to the Project and for which payment has been received. If ICS has prepared for or performed Professional Services for which payment has not been received as of the date of termination, the Client shall be entitled to purchase the products of those Professional Services, such as records, materials, and documents, from ICS provided the Client and ICS agree to a purchase price and terms of sale. If the Client does not purchase the products of these Professional Services, the Client remains liable to ICS for any amounts incurred by unpaid charges for Professional Services performed. If this Agreement is terminated through no fault of ICS, the Client shall compensate ICS for all Professional Services performed prior to termination, all expenses incurred, all costs attributable to termination, including the costs attributable to ICS 's termination of consultant agreements, plus termination expenses of 25% of all unbilled fees.
- b. If after project scoping is accepted by the Client, redesign or analysis of alternates is required to accommodate value engineering items due to lack of funding, or if there are contractor requests requiring a re-negotiated engineering services contract, this Agreement shall be deemed terminated, and within 14 days of the date of termination, Client shall pay ICS for all Professional Services completed through the date of termination.
- c. If the Project is suspended, placed on hold or temporarily terminated for more than 15 calendar days, this Agreement will be deemed to be terminated on the 16th calendar day and the Parties shall negotiate a new agreement prior to restart of the Project to re-establish a new schedule and adjusted compensation and any other necessary revisions. Within 14 days of the date of termination, the Client agrees to pay ICS for all Professional Services completed through the date of termination plus all expenses incurred, all costs attributable to the termination, including the costs attributable to ICS 's termination of consultant agreements.

12. Other Provisions:

- a. The Parties each acknowledge that they will act in good faith in carrying out their duties and obligations under this Agreement.
- b. The Parties each acknowledge that they have reviewed and familiarized themselves with this Agreement, including its attachments, and agree to be bound by the terms and conditions contained therein.
- c. The Client shall designate a responsible employee as its contact for administration and coordination of the Work. The Client's contact shall have the authority to approve changes in the scope of the Project and shall be available during working hours as necessary to examine information submitted by ICS, to render or convey decisions, and to furnish information in a timely manner.
- d. It is specifically always understood and agreed that pertinent to this Agreement that ICS shall be an independent contractor and shall not be considered an employee of the Client.
- e. The Client shall provide prompt written notice to ICS if the Client becomes aware of any errors, omissions or inconsistencies in ICS 's Professional Services or information furnished by Client or Client's agents.
- f. The Client shall ensure that Project team leaders directly contracted to the Client have budgeted and thoroughly discussed and accepted all Project costs and values with the Client.
- g. The Parties understand and agree this Agreement may be changed or modified only through written agreement signed and dated by the Client and ICS. No act, omission or course of dealing by the Parties shall alter the requirement that modifications or changes to this Agreement can be accomplished only by mutual written agreement signed and dated by the Parties.
- h. This Agreement shall not be assigned by the Client or ICS without prior written consent of the other party to this Agreement.

- i. This Agreement shall be governed by and construed under the laws of the state where the Project is located.
- j. Unless otherwise provided, all notices and notifications shall be in writing and considered duly given if sent by U.S. Mail, postage prepaid, or by facsimiles to the business address of the parties set forth in this Agreement. Such notice(s) shall be deemed given as of the second business day following the date of posting by U.S. Mail or the next business day following the date of sending in the case of a facsimile or telecopy.

End of General Conditions

Appendix B

Signature Page

Signature Page

City of Owatonna
Professional Services Agreement
5/21/2024

Proposal Terms

Terms of payment of services are delineated in the proposal dated 5/21/2024.

Signature includes acceptance of attached proposal, fee schedule, and general conditions.

Authorization to Proceed

We appreciate the opportunity to present this Professional Services Agreement. Please sign and return both copies of this document to our office. Upon receipt of both signed copies, a fully executed original copy will be forwarded back to you for your records. We will begin the project at the time of signature acceptance of this proposal.

Please proceed according to the above stated terms, attached general conditions and the proposal.

City of Owatonna

Date

Date

Printed Name

Printed Name

Authorized Signature

Authorized Signature

ICS

Date

Printed Name

Authorized Signature

Appendix C

*Preliminary
Project Timeline*

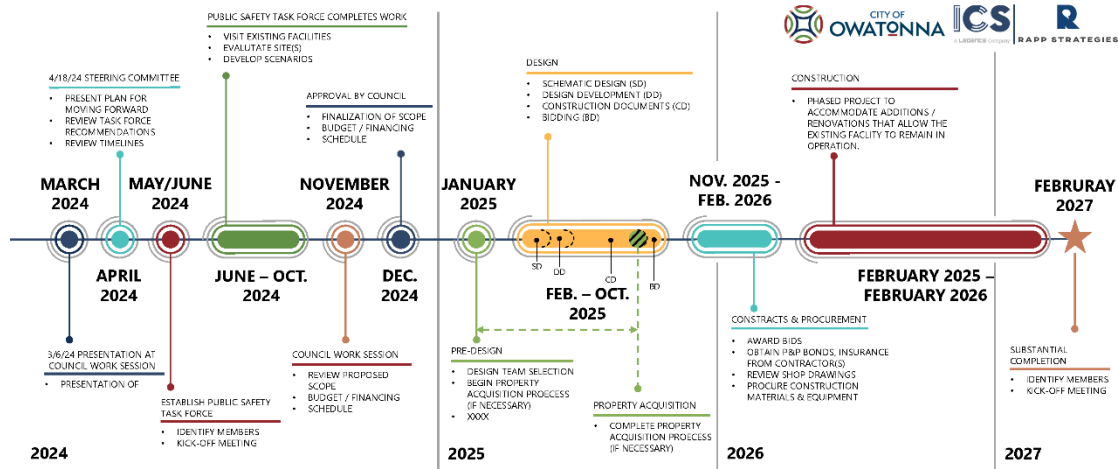
Preliminary Project Timeline

City of Owatonna

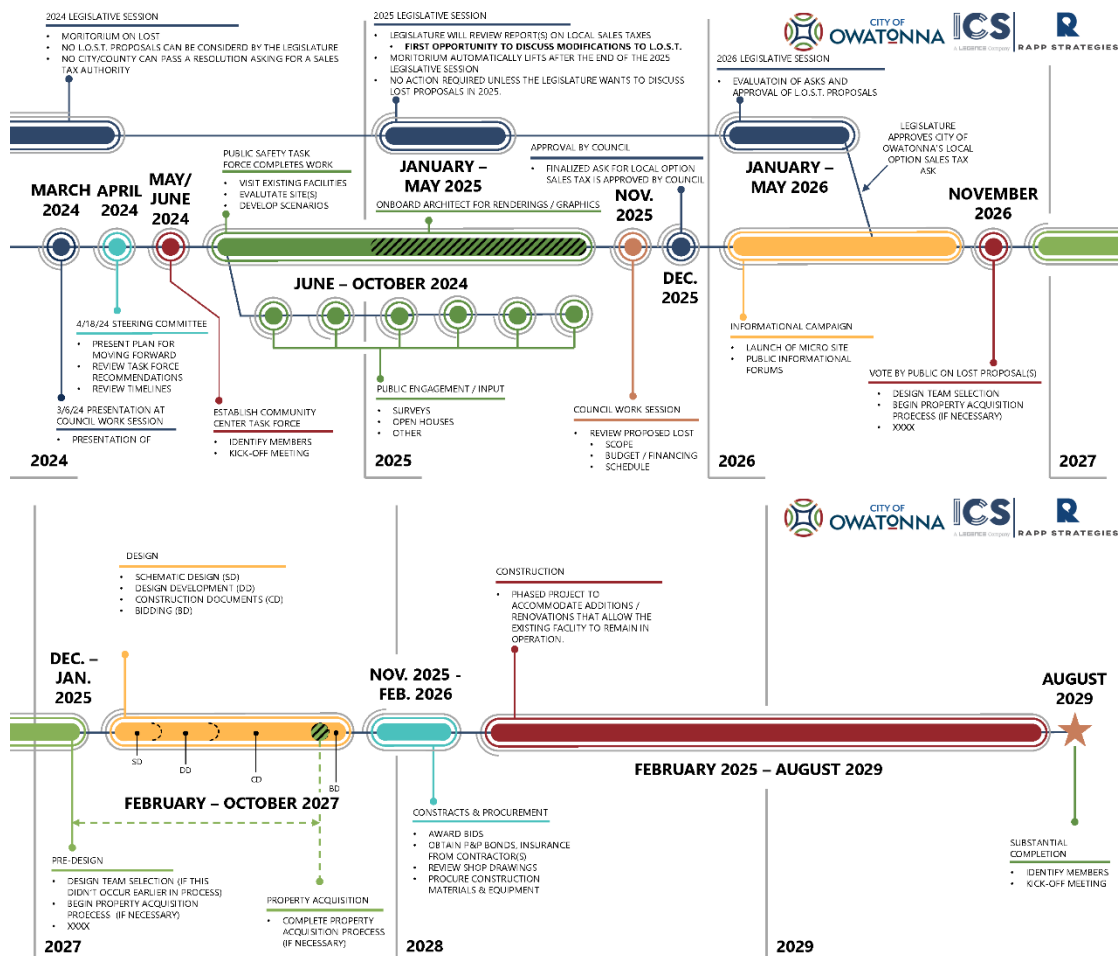
Professional Services Agreement

5/21/2024

PUBLIC SAFETY CENTER PRELIMINARY PROJECT TIMELINE:



PUBLIC SAFETY CENTER PRELIMINARY PROJECT TIMELINE:

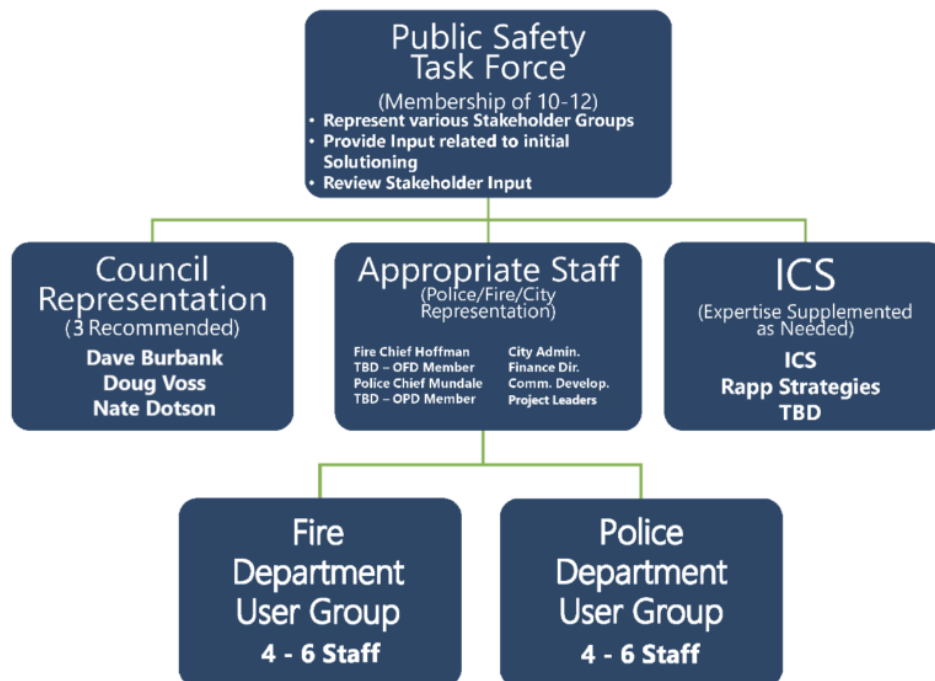
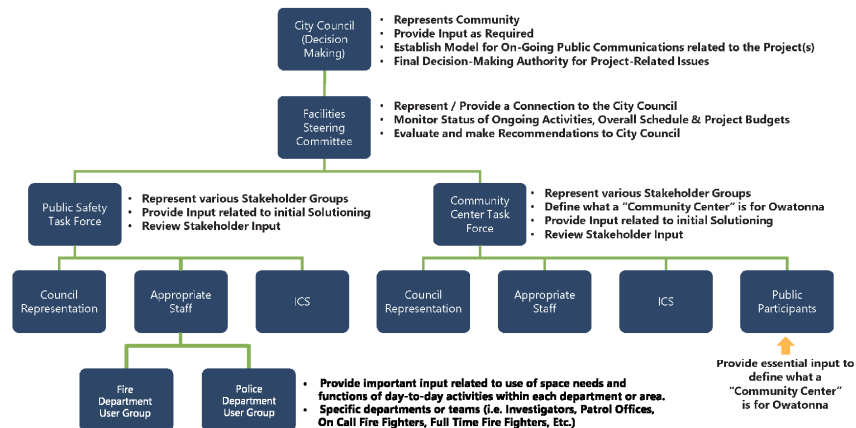


Appendix D

*Communications Hierarchy
& Task Force
Organizational Structure*

Communications Hierarchy & Task Force Organizational Structure

City of Owatonna
Professional Services Agreement
5/21/2024

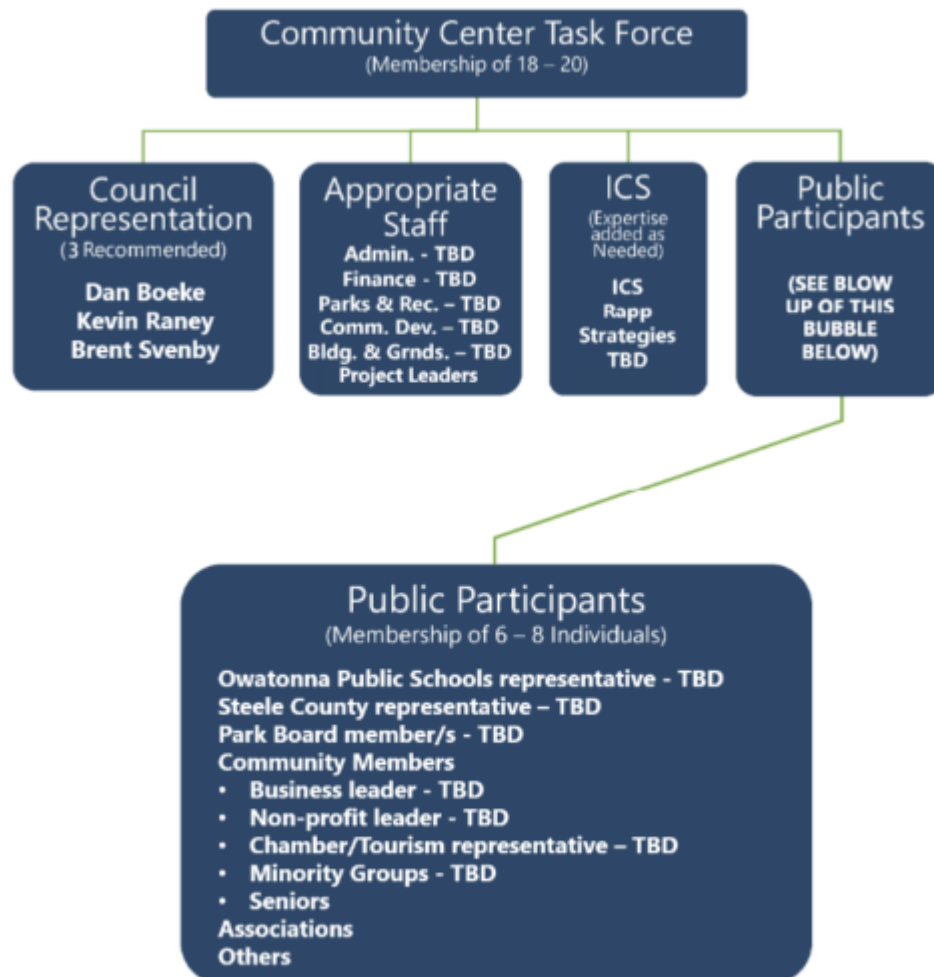


Communications Hierarchy & Task Force Organizational Structure

City of Owatonna

Professional Services Agreement

5/21/2024



Appendix E

Communications Roles & Responsibilities Matrix

Communications Roles & Responsibilities Matrix

City of Owatonna

Professional Services Agreement

5/21/2024

Responsibility Matrix	ICS Team	City
Comprehensive Communication Plan and Support	X	X
City Microsite Restructure for Optimum Community Engagement	X	X
City Voter Analysis	X	
Public Survey and Polling	X	
Online Survey Development and Implementation	X	
Engage Local Business to Identify Potential Public / Private Partnerships	X	X
Create and Implement Strategy, Plan and Timeline for Successful Referendum	X	X
Community Engagement Content Development and Production	X	
City Community Leadership Outreach	X	X
Traveling, Creating, Filming, and Editing Videos		X
Prepare and Implement Strategic Community Information Sessions	X	
Other Assessment and Surveys as Needed (TBD)		X
Project Design Meetings	X	
Architectural Renderings for Public		X
Misc. Coordination / Support / Strategy / Presentations, etc that are outside the scope of this proposal	X	X

Appendix F

Hourly Billing Rates

Billing Rates

City of Owatonna
Professional Services Agreement
5/21/2024

2024 Hourly Rate Schedule			
Personnel Description:		Rate/Hour:	
Construction Executive		\$	180
Project Director		\$	150
Safety Director		\$	135
Senior Project Manager		\$	140
Project Manager		\$	130
General Superintendent		\$	140
Site Superintendent		\$	125
Project Engineer		\$	95
Clerical / Accounting		\$	70
Industry Standard Fee Range:	Typical Design Fee:	Typical CM Fee:	
Heavy Renovation / Remodeling	7.50% - 8.50%	2.50% - 3.80%	
Light Renovation / Remodeling	7.00% - 8.00%	2.50% - 3.50%	
Additions	6.00% - 7.50%	2.50% - 3.50%	
New Construction	5.00% - 6.00%	1.50% - 3.00%	
Flat Rates for Reimbursable Items:		Rate Monthly / Weekly:	
Site Trailer		\$	1,600 per month
Office Supplies / Equipment		\$	300 per month
Phones / Internet / Technology		\$	550 per month
Superintendent Truck		\$	1,400 per month
Project Construction Mileage		\$	1,000 per month
Safety Supplies and Signage		\$	350 per month
Pre-Construction Mileage		\$	250 per month
Superintendent Lodging / Meals		\$	1,000 per week

Note: ICS reserves the right to conduct internal review and make adjustments of Hourly Rate Schedule. In the event that future reviews of this schedule are needed, the Hourly Rate Schedule will be updated via amendment to this agreement.

Appendix G

Notification of Equal Employment Opportunity / Affirmative Action Compliance

Notification of Equal Employment Opportunity/Affirmative Action Compliance

City of Owatonna

Professional Services Agreement

5/21/2024

4/21/2023



1331 Tyler Street NE, Suite 101
Minneapolis, MN 55413
ics-builds.com
(763) 354-2670

Re: Notification of Equal Employment Opportunity/Affirmative Action Compliance

To Whom It May Concern:

As part of ICS's compliance with the federal Equal Employment Opportunity and the State of Minnesota's Affirmative Action Plan (AAP), we hereby notify you that ICS Consulting, LLC is an equal opportunity employer that makes employment decisions without regard to race, national origin, religion, age, color, sex, sexual orientation, gender identity, disability, protected veteran status, or any other characteristic protected by local, state, or federal laws, rules, or regulations.

ICS takes affirmative steps to employ and advance employment-qualified individuals without regard to race, national origin, religion, age, color, sex, sexual orientation, gender identity, disability, protected veteran status, or any other characteristic protected by local, state, or federal laws, rules, or regulations. ICS further notifies you that as an entity supplying goods or services to ICS, your organization may be subject and required to take action pursuant to the following laws and accompanying regulations:

- Executive Order 11246 (and its implementing regulations at 41 C.F.R. part 60); and
- The Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended (and its implementing regulations at 41 C.F.R. 60-300); and
- Section 503 of the Rehabilitation Act of 1973, as amended (and its implementing regulations at 41 C.F.R. 60-741); and
- Executive Order 13496 (and its implementing regulations at 29 C.F.R. part 471, Appendix A to Subpart A).

The equal opportunity clauses within each of the above regulations, as applicable, are included by reference in all contracts between ICS and your company.

Sincerely,

A handwritten signature in black ink, appearing to read 'AF', located below the 'Sincerely,' text.

Andy Faulkner
President
ICS



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Eric Anderson, Recreation Manager
SUBJECT: Donation to Rec and Go Program - Gopher Sport

Purpose:

Requesting City Council approval to accept \$15,500 and equipment donation from Gopher Sport to be used towards the Rec On the Go Program.

Background:

The Rec On the Go Program was introduced in 2017 as a summer weekend activity. It expanded into a small program in the summers of 2018 and 2019; however, it was put on hold in 2020 due to Covid-19. The program is set to return as an annual program for the summer of 2024. It brings recreation, programs, and activities to neighborhoods during the summer.

Although popular, the program faced barriers such as a lack of efficient transportation for the equipment throughout the community and a shortage of necessary equipment, which required staff to borrow from other programs, limiting availability.

The 2024 plan aims to incrementally eliminate these barriers through future year's budgets. This winter, an opportunity arose when Gopher Sport contacted the city expressing interest in becoming a community partner. They initially donated \$10,000 to the Youth Scholarship Assistance Fund and are seeking a longer-term, more significant partnership. The staff explored opportunities with Gopher Sport and agreed to focus on supporting the 'Rec On the Go' program. Gopher Sport is offering funds to purchase a fully partnered branded wrapped enclosed trailer, along with the needed program equipment. This will help reduce the barriers to delivering this program!

Budget Impact:

The donation supports the 2024 Recreation Operating budget. It would eliminate the need for a future request to purchase a trailer and reduce the effects on equipment purchases. The trailer would be included in the Recreation Department Vehicle Replacement Fund (VRF) plan for future replacement.

Staff Recommendation:

Staff recommends approval.

Attachments:

None



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Aaron Fitzloff, Facilities Manager
SUBJECT: Capital Improvement Project: Social Commons HVAC Rooftop Replacement Bid

Purpose:

Accept the bid from Owatonna Heating and Cooling to replace the Social Commons Rooftop unit.

Background:

The Social Common facility has three rooftop air handling units (RTU). Replacing the units is a multi-year approach, and this is two of three in the replacement plan. The final unit is proposed for replacement in the 2025 Capital Improvement Plan.

There were two bidders. Owatonna Heating and Cooling submitted the lowest and most qualified bid, **\$22,700**, and Davis Mechanical submitted a bid of \$39,779.

Budget Impact:

This bid is within the approved GB-21-002 CIP project. (\$30,000).

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Social Commons Rooftop Unit Replacement Bid

Owatonna Heating and Cooling, Inc.
408 N. Cedar Ave. Owatonna MN 55060
Telephone 507-451-2051 Fax 507-455-9254

May 6, 2024

City of Owatonna
540 West Hills Circle
Owatonna, MN 55060

ATTN: Aaron

RE: Mechanical Improvements

Social Commons RTU Replacement

The price includes: RTU, Curb adaptor, guard rail, and electrical hookup.

Total Price \$22,700.00

Note: Equipment used for price – Carrier M/N: 48FCFA05K2M5-6W120

Note: sub-contractors included: 4-seasons Electric, 3127 South County Road 45, Owatonna

Note: Price does not include: roofing, bond, or changes necessitated by code review.

Note: Addenda received: 1

Note: This bid is valid for 10 days.

Questions or comments regarding this document can be directed to our office at the telephone number listed above or by e-mailing our office at wes.kain@owatonna-heating.com.

Submitted by,

Wes Kain

Accepted By: _____ Date: _____



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Aaron Fitzloff, Facilities Manager
SUBJECT: Capital Improvement Project: Maintenance Facility Ventilation Upgrade

Purpose:

Accept the bid from Owatonna Heating and Cooling for the replacement of the Mechanic Shop ventilation unit.

Background:

The ventilation system serves the Mechanical Shop. The make-up air handling unit (MAU) is located in the shop's mezzanine and is at the end of its life cycle.

The project's scope is to replace the existing unit and control. This project is part of the approved 2024 Capital Improvement Plan, GB-24-004.

Two bids were received:

- Owatonna Heating and Cooling: \$21,900
- Davis Mechanical: \$32,882

Budget Impact:

The bid is within the approved GB-24-04 CIP project. (\$75,000).

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Maintenance_Shop Make Up Air Bid

Owatonna Heating and Cooling, Inc.
408 N. Cedar Ave. Owatonna MN 55060
Telephone 507-451-2051 Fax 507-455-9254

May 6, 2024

City of Owatonna
540 West Hills Circle
Owatonna, MN 55060

ATTN: Aaron

RE: Mechanical Improvements

Maintenance Shop MUA Replacement

The price includes: MUA, duct transitions, controls, and electrical hookup.

Total Price \$21,900.00

Note: Equipment used for price: Titan Air M/N: TA-115NGHRD

Note: sub-contractors included: 4-seasons electric, 3127 South County Road 45, Owatonna

Note: Price does not include: CO/NO2 detection, Bond, or changes necessitated by code review.

Note: Addenda received: 1

Note: This bid is valid for 10 days.

Questions or comments regarding this document can be directed to our office at the telephone number listed above or by e-mailing our office at wes.kain@owatonna-heating.com.

Submitted by,

Wes Kain

Accepted By: _____ Date: _____



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Aaron Fitzloff, Facilities Manager
SUBJECT: Capital Improvement Project: Fire Hall Air Handling Unit Replacement

Purpose:

Seeking approval for the replacement of the Fire Hall air handling unit.

Background:

This is a 2024 approved Capital Improvement Project, F-22-004. This has been a multi-year approach to replace these units; this is the last to be replaced. The project scope is to replace the existing ducted, ceiling-hung ventilation Air Handling Unit (AHU) located in the fire hall's vehicle garage with a new unit. The existing unit is a 3,000-cfm draw-thru air handler with a Direct Expansion (DX) cooling coil and hot water heating coil. DX cooling is provided by a nominal 10-TON, 2-circuit, air-cooled condensing unit ("ACCU") with a hot-gas bypass. Hot water heating is provided by a central hot water heating plant and a dedicated coil injection pump/control valve combination.

This dedicated, constant volume outdoor air unit provides 100% outdoor air during summer and 33% outdoor air during winter operation through a supply duct bypass with a weighted bypass back-draft damper. The AHU provides conditioned outdoor air to eight (8) ducted DX/hot water fan-coil units throughout the Fire Hall. The AHU is controlled by an existing Johnson Controls Building Automation System (BAS).

We had two bidders, with Owatonna Heating and Cooling as the lowest and most qualified at \$19,900.

Fire Hall	Bid Tabulation
Owatonna Heating Cooling	\$19,900
Davis Mechanical	\$41,343

Budget Impact:

This bid is with the approved F-22-004 CIP project. (\$25,000).

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Fire Hall Air Handler Unit Replacement Bid

Owatonna Heating and Cooling, Inc.
408 N. Cedar Ave. Owatonna MN 55060
Telephone 507-451-2051 Fax 507-455-9254

May 6, 2024

City of Owatonna
540 West Hills Circle
Owatonna, MN 55060

ATTN: Aaron

RE: Mechanical Improvements

Firehall AHU Replacement

The price includes: AHU, Duct transitions, glycol loop hook up, and electrical hookup.

Total Price \$19,900.00

Note: Equipment used for price – Carrier M/N: 39LA06MBEBB-AFB1A9

Note: sub-contractors included: 4-seasons Electric, 3127 South County Road 45, Owatonna – Faribo Plumbing, 2345 8th Ave NW, Faribault – SMB of Minnesota, 9380 Central Ave Suite 120, Blaine

Note: Price does not include: Bond, Controls, or changes necessitated by code review.

Note: Addenda received: 1

Note: This bid is valid for 10 days.

Questions or comments regarding this document can be directed to our office at the telephone number listed above or by e-mailing our office at wes.kain@owatonna-heating.com.

Submitted by,

Wes Kain

Accepted By: _____ Date: _____



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Aaron Fitzloff, Facilities Manager
SUBJECT: Capital Improvement Project: Innovative Masonry - City Hall Tuckpointing Agreement

Purpose:

Accept bids from Innovative Masonry for the tuckpointing and brick repair on the City Hall building.

Background:

Owatonna City Hall was constructed in 1887. It was originally the Administration Building for the State School for Dependent and Neglected Children. In 1974, the City purchased the West Hills Campus, and in 1975 it was placed on the National Register of Historic Places.

GB-13-007 Capital Improvement Project (CIP) is part of a multi-year effort to address needed repairs and upkeep on the City Hall building. In 2019, the roofing, gutters, and downspouts were replaced; in 2022, the east elevation was tuckpointed.

The City solicited proposals for tuckpointing and masonry rehabilitation, divided into three portions for bidding for the main building's north, west and south elevations. A small portion of the east elevation is included in the proposal. Work includes replacing cracked and broken brick, infilling mechanical vents, selectively pointing joints, replacing sealant at the perimeter of windows and doors, selectively replacing damaged limestone, and selective masonry cleaning.

Staff and Adsit consultants met with interested contractors to review the project, familiarize themselves with the existing conditions, and verify the quantity of the work. We had three bidders and Innovative Masonry Restoration was the lowest and most qualified bidder, accepting Bid 1 & 2 for \$112,000.

Bidder	Bid 1	Bid 2	Bid 3	Unit Pricing
ACME	\$18,500	\$188,000	\$203,000	Spot Tuckpointing \$25/SF Brick Replacement Labor \$65.00/each Limestone Replacement \$600/SF
Advance Masonry	\$23,350	\$186,000	\$202,700	Additional Tuckpointing \$24.00/sq ft

Restoration

Brick Replacement \$42.00/ ea.

Dutchman \$350/sq ft

Mobilization:

\$23,000

Innovative \$36,000 \$76,000 \$136,000

Masonry

Restoration

n

Tuckpointing \$35.00 sf

Individual brick replacement \$55.00 ea

Replacement of limestone for Dutchman repair 4"

\$175.00sf

Budget Impact:

The GB-13-007 project is part of the approved 2024 Capital Improvement Projects. The bids of \$112,000 are within the budgeted amount (\$150,000).

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Bid Tabulation Tuckpointing 2024
2. A101-2017 -Owatonna City Hall Masonry and Tuckpointing.
3. A201-2017 - Owatonna City Hall Masonry Repair and Tuckpointing
4. Exhibit A - Insurance and Bonds

	Bid 1	Bid 2	Bid 3
ACME	18,500	188,000	203,000
Advance Masonry Restoration	23,350.00	186,000.00	202,700.00
Innovative Masonry Restoration	36,000.00	76,000.00	136,000.00

Unit Pricing

Spot Tuckpointing - \$25/SF

Brick Replacement Labor - \$65.00/each

Limestone Replacement - \$600/SF

Additional Tuckpointing \$24.00/sqft

Brick Replacement \$42.00/ ea. * if an area larger than 5 sqft the cost will be based on a per square foot.

Dutchman \$350/sqft

Mobilization:\$23,000.00

Tuckpointing-\$35.00 sf

Individual brick replacement \$55.00ea

Replacement of limestone for dutchman repair 4" - \$175.00sf

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 Tenth day of May in the year 2024
(In words, indicate day, month and year.)

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

City of Owatonna
540 West Hills Circle Drive
Owatonna, MN 55060

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

Innovative Masonry
Restoration LLC
16624 Lakeside Avenue

Prior Lake, M 55372

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

Owatonna City Hall Masonry Repair and Tuckpointing
540 West Hills Circle

Owatonna, MN 55060

The project involves tuckpointing and replacement of brick and stone, sealant replacement and masonry cleaning at Owatonna City Hall. The City Hall is a nationally designated historic structure.

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

Adsit Architecture and Planning
3034 Benjamin Street NE
Minneapolis, MN 55418

The Owner and Contractor agree as follows.

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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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.

Init.

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User Notes:

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.)

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:

Init.

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User Notes:

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

☐ Not later than () calendar days from the date of commencement of the Work.

☒ By the following date:
November 15, 2024

§ 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 hundred and twelve thousand dollars (\$ 112, 000.00), subject to additions and deductions as provided in the Contract Documents for :

Bid 1 Restoration of east main entry \$36,000.00

(Paragraph Deleted)

Bid 2 Restoration of northwest quadrant \$76,000.00

(Paragraph Deleted)

(Table Deleted)

(Paragraphs Deleted)

(Table Deleted)

(Paragraphs Deleted)

(Table Deleted)

§ 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.)

Init.

Item	Units and Limitations	Price per Unit (\$0.00)
Unit Price 1 Tuckpointing	Square foot of masonry	\$35.00
Unit Price 2 Brick Replacement	Brick	\$55.00
Unit Price 3 Replacement of limestone for dutchman repair to 4" thickness	Square foot of limestone	\$175.00

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

\$300 per day.

(Paragraphs Deleted)

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:

Biweekly ending the Wednesday before the first and third Tuesday of each month.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the Thursday before the First and Third Tuesday of each month, the Owner shall make payment of the amount certified to the Contractor not later than the first and third Wednesday of each month
(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;

Init.

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User Notes:

- .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.)

Five percent (5%)

§ 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.)

Insurance and permit cost

§ 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.)*

§ 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)*

Mediation and
Arbitration

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:

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User Notes:

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

Kris M. Busse – City Administrator
City of Owatonna

540 West Hills Circle Drive

Owatonna, MN 55060

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Chad Dieken, Project Manager
Innovative Masonry Restoration
,LLC
16624 Lakeside Avenue

Prior Lake, M 55372

§ 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, as set forth in Owatonna City Hall Tuckpointing and Masonry Rehabilitation Scope of Work Article 11 Insurance. and Exhibit A Insurance and Bonds

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and as set forth in Owatonna City Hall Tuckpointing and Masonry Rehabilitation Scope of Work Article 11 Insurance.

§ 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 A201™–2017, General Conditions of the Contract for Construction

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(Paragraphs Deleted)

.5 Drawings

Number	Title	Date
2 Drawings	Owatonna City Hall Masonry Repair and Tuckpointing	4/8/2024
T1.0 Title Sheet		
A1.0 First Floor Plan		

.6 Specifications

Section	Title	Date	Pages
Scope of Work	Owatonna City Hall Masonry Repair and Tuckpointing	4/8/2024	30
Section 04 0100	Maintenance of Masonry	4	

.7 Addenda, if any:

Number	Date	Pages
1	April 9, 2024	1
2	April 19, 2024	1 page plus 1 Drawing

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 A101 2017 Exhibit A Insurance and Bonds

☐ 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
Scope of Work	Owatonna City Hall Tuckpointing and Scope of Work	April 8, 2024	30

.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,

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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 M Busse
City Administrator
(Printed name and title)

CONTRACTOR *(Signature)*

Innovative Masonry Restoration, LLC
(Printed name and title)

Init.

Additions and Deletions Report for

AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 19:10:37 ET on 05/18/2024.

PAGE 1

AGREEMENT made as of the Tenth day of May in the year 2024

...

City of Owatonna
540 West Hills Circle Drive
Owatonna, MN 55060

...

Innovative Masonry
Restoration LLC
16624 Lakeside Avenue

Prior Lake, M 55372

...

Owatonna City Hall Masonry Repair and Tuckpointing
540 West Hills Circle

Owatonna, MN 55060

The project involves tuckpointing and replacement of brick and stone, sealant replacement and masonry cleaning at Owatonna City Hall. The City Hall is a nationally designated historic structure.

...

The Architect:

...

Adsit Architecture and Planning
3034 Benjamin Street NE
Minneapolis, MN 55418

PAGE 2

[☒] A date set forth in a notice to proceed issued by the Owner.

PAGE 3

[☒] By the following date:

...

November 15, 2024

...

§ 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 hundred and twelve thousand dollars (\$ 112, 000.00), subject to additions and deductions as provided in the Contract ~~Documents~~ Documents for :

...

Bid 1 Restoration of east main entry \$36,000.00

...

§ 4.2 Alternates

...

Bid 2 Restoration of northwest quadrant \$76,000.00

...

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

...

Item

Price

...

§ 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

PAGE 4

Unit Price 1 Tuckpointing

Square foot of masonry

\$35.00

Unit Price 2 Brick Replacement

Brick

\$55.00

Unit Price 3 Replacement of limestone for
dutchman repair to 4" thickness

Square foot of limestone

\$175.00

...

\$300 per day.

...

§ 4.6 Other:

...

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

...

Biweekly ending the Wednesday before the first and third Tuesday of each month.

...

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, Thursday before the First and Third Tuesday of each 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. first and third Wednesday of each month

PAGE 5

Five percent (5%)

...

Insurance and permit cost

PAGE 6

[X] Other (*Specify*)

...

Mediation and

...

Arbitration

PAGE 7

Kris M. Busse – City Administrator
City of Owatonna

540 West Hills Circle Drive

Owatonna, MN 55060

...

Chad Dicken, Project Manager
Innovative Masonry Restoration
,LLC
16624 Lakeside Avenue

Prior Lake, M 55372

...

§ 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~~ as set forth in Owatonna City Hall Tuckpointing and Masonry Rehabilitation Scope of Work Article 11 Insurance. and Exhibit A Insurance and Bonds

...

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and ~~elsewhere in the Contract Documents~~ as set forth in Owatonna City Hall Tuckpointing and Masonry Rehabilitation Scope of Work Article 11 Insurance.

...

.2 ~~AIA Document A101™–2017, Exhibit A, Insurance and Bonds~~

...

PAGE 8

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.)

2 Drawings

Owatonna City Hall
Masonry Repair and
Tuckpointing

4/8/2024

T1.0 Title Sheet

A1.0 First Floor Plan

Scope of Work

Owatonna City Hall
Masonry Repair and
Tuckpointing

4/8/2024

30

Section 04 0100 Maintenance of Masonry 4

1
2

April 9, 2024
April 19, 2024

1
1 page plus 1 Drawing

X AIA Document A101 2017 Exhibit A Insurance and Bonds

[X] Supplementary and other Conditions of the Contract:

Kris M Busse
City Administrator

Innovative Masonry Restoration, LLC



Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Mina Adsit, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 19:10:37 ET on 05/18/2024 under Order No. 2114535184 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Owatonna City Hall Masonry Repair and Tuckpointing
640 West Hills Circle
Owatonna, MN 55060

THE OWNER:

(Name, legal status and address)

City of Owatonna
540 West Hills Circle Drive
Owatonna, MN 55060

THE ARCHITECT:

(Name, legal status and address)

Adsit Architecture and Planning, Subchapter S Corporation
3034 Benjamin Street NE
Minneapolis, MN 55418

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
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- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT

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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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15 CLAIMS AND DISPUTES



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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the

Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work,

promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will

affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and

unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

- § 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
 - .2 failure of the Work to comply with the requirements of the Contract Documents;
 - .3 terms of special warranties required by the Contract Documents; or
 - .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member on the jobsite as the competent person of the Contractor's organization whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

A "competent person" is defined as "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor,

Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the

Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the

parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

Additions and Deletions Report for

AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 19:07:00 ET on 05/18/2024.

PAGE 1

Owatonna City Hall Masonry Repair and Tuckpointing
640 West Hills Circle
Owatonna, MN 55060

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City of Owatonna
540 West Hills Circle Drive
Owatonna, MN 55060

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Adsit Architecture and Planning, Subchapter S Corporation
3034 Benjamin Street NE
Minneapolis, MN 55418

PAGE 10

ARTICLE 1 GENERAL PROVISIONS

PAGE 30

§ 10.2.6 The Contractor shall designate a responsible member on the jobsite as the competent person of the Contractor's organization ~~at the site~~ whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

...

A "competent person" is defined as "one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them."

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Mina Adsit, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 19:07:00 ET on 05/18/2024 under Order No. 2114535185 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

AIA Document A101 2017 Exhibit A Insurance and Bonds

Article 11 – Insurance:

Bonds

1. 11.1.2 Payment and Performance Bond: The Contractor shall provide a payment and performance bond that covers the cost of the Contract for construction. Provide the bond as per AIA Document A312 Performance or other similar form approved by the Owner.
2. 11.1.5 Compensation Insurance: the Contractor shall take out and maintain during the life of this Contract "Workmens' Compensation Insurance" for all of his employees employed at the site of the project, and in the of any work is sublet the Contractor shall require the Subcontractor similarly to provide "Workman's Compensation Insurance" for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor, in case any class of employee engaged in hazardous work under this Contract at the site of the project is not protected under the Workmens' Compensation Insurance Statute, the Contractor shall provide, and shall cause each Subcontractor to provide adequate insurance coverage for the protection of his employees not otherwise protected.
3. 11.1.6 Public Liability and Property Damage Insurance: The Contractor shall take out and maintain during the life of this Contract such Public Liability and Property Damage Insurance, including Contractor's Contingent or Protective Insurance to protect the Contractor from damage claims, arising from operations under this Contract, as shall protect him and any Subcontractors performing work covered by this Contract, from claims for damages for personal injury, including accidental death, as for claims for property damages which may arise from operations under this Contract, whether such operations be by himself or the Subcontractor or by anyone directly or indirectly employed by either of them and the amounts of such insurance shall be as follows:
 - a. Public Liability Insurance in an amount not less than, \$2,000,000.00 combined single limit or equivalent. The Contractor shall require Subcontractors, if any, not protected under the Contractor's insurance policies to take out and maintain like insurance in like amounts. Contractor shall supply the City with a Certificate of Insurance listing the City as additional insured. The limits of coverage may be provided by coverage of \$1,000,000.00 combined single limit, together with excess or "umbrella" coverage of \$1,000,000.00 combined single limits.
4. 11.1.7 Automobile Insurance: The Contractor shall take out and maintain during the life of the Contract automobile public liability insurance in the amount of not less the \$2,000,000.00 combined single limit or equivalent. The limits of coverage may be provided by coverage of \$1,000,000.00 combined single limit, together with excess or "umbrella" coverage of \$1,000,000.00 combined single limits.

5. 11.1.8 Fire Insurance: The Contractor shall take out and maintain Fire Insurance in the form of a Builder's Risk Policy in the full amount of the Contract sum payable to the Owner as trustee for whom it may concern. He shall continue this insurance in force until notified by the Owner that the permanent insurance policy is in force. All policies shall be open to inspection by the Owner. The Owner as Trustee shall, upon the occurrence of loss, deposit any money received from the insurance in an account separate from all his other funds and he shall distribute it in accordance with such agreement as the parties in interest may reach, or under an award of arbitrators appointed, one by the Owner, another by joint action of the other parties in interest, all other procedure being as provided elsewhere in the Contract for arbitration. If after loss, no special agreement is made, replacement of injured work shall be ordered and executed as provided for changes in the work. The Trustee shall have power to adjust and settle any loss with insurers unless one of the Contractors interested shall object in writing within three working days of the occurrence of loss and there upon settlement with the insurers in accordance with the directions of such arbitrators, who shall also, if distribution by arbitrators is required, direct such distribution.
6. 11.1.9 Railroad Protective Insurance: The Contractor shall take out and maintain railroad protective insurance as necessary under the terms of the Contract.

B. 15.3.1 Mediation and Arbitration

1. Mediation: if a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, or some other dispute resolution procedure.
2. Arbitration: Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in Accordance with its Commercial Arbitration Rules and judgement on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Sean Murphy, Public Works Director
SUBJECT: Engineering Services Agreement - PFAS Preventative Management Plan - Nero Engineering

Purpose:

Requesting City Council approval of the Nero Engineering Per- and polyfluoroalkyl substances (PFAS) Preventative Management Plan Agreement.

Background:

PFAS (also known as forever chemicals) is a general group of chemicals, numbering over 4,000, that are incredibly difficult/costly to break down or in some cases impossible to break down. The scientific consensus is that significant actions are necessary to prevent further adverse impacts from PFAS.

The MPCA requires that the City of Owatonna and communities across Minnesota develop a PFAS Preventive Management Plan (PMP). This proposal is for assisting the City in developing the plans for the prevention of PFAS pollution. Some monitoring and sampling were already conducted by the MPCA. Based on the results of the initial sampling, Owatonna was determined to be in the Medium Category based on Maximum PFOS, PFOA, and PFBS. This management plan will highlight the additional mapping and source identification that are necessary for PFAS pollution prevention.

See the attached agreement for the proposed approach and scope of services.

Budget Impact:

The total cost is not to exceed \$9,620 and will be paid for using sanitary sewer funds.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Nero Engineering Agreement - PFAS Preventative Management Plan



ENGINEERING SERVICES AGREEMENT

Project: PFAS Preventative Management Plan (Project)

This Agreement is by and between:

City of Owatonna (Owner)
540 West Hills Circle
Owatonna, MN 55060

and

Nero Engineering, LLC (Nero)
7135 Madison Ave. W
Minneapolis, MN 55427

Who agree as follows:

Owner hereby engages Nero to perform the Services set forth in Part I for the compensation set forth in Part III. Nero will be authorized to commence the Services upon execution and receipt of this Agreement from Owner. Owner and Nero agree that this signature page, together with Parts I through IV attached, constitute the entire agreement for this Project.

APPROVED FOR OWNER

By: _____

Printed Name: _____

Title: _____

Date: _____

APPROVED FOR NERO

By: Jennifer Svenes

Printed Name: Jennifer Svenes, PE

Title: Vice President

Date: May 14, 2024

PART I
PROJECT DESCRIPTION/SCOPE OF SERVICES/TIMING

A. PROJECT DESCRIPTION

The MPCA has proposed a statewide project around Per- and polyfluoroalkyl substances, commonly known as PFAS. These chemicals are called “forever chemicals,” as they accumulate in living organisms, do not naturally break down, can bioaccumulate, and some are toxic to humans. The scientific consensus is that significant actions are needed to prevent further adverse impacts from PFAS. While management and mitigations can lead to a positive outcome, prevention through restricted use or bans are needed. Minnesota bill HF 2310 was signed into law in 2023, which bans all uses of PFAS in products by 2032 (except those that are necessary for public health), requires manufacturers to report their use of PFAS in products to the state by 2026, and bans specific uses in several products starting in 2025. The EPA has also implemented PFAS regulations on certain PFAS compounds in drinking water.

According to the MPCA’s website, the Minnesota strategy for PFAS include:

- Prevent PFAS pollution wherever possible.
- Manage PFAS pollution when prevention is not feasible or pollution has already occurred.
- Clean up PFAS pollution at contaminated sites.

The MPCA requires that the City of Owatonna and communities across Minnesota develop a PFAS Preventive Management Plan (PMP). This proposal is for assisting the City in developing the plans for the prevention of PFAS pollution. Some monitoring and sampling were already conducted by the MPCA. Based on the results of the initial sampling, Owatonna was determined to be in the Medium Category based on Maximum PFOS, PFOA, and PFBS. This management plan will highlight the additional mapping and source identification that are necessary for PFAS pollution prevention. To continue to build on that effort, Nero Engineering proposes the following approach:

Source Identification

1. Develop a plan to complete a sewer shed mapping of facilities to help identify sections of the sewer shed where higher concentrations of PFAS may be entering the collection system.
2. Reach out to MPCA to query a list of local business NAICS codes in your community that can help identify the top potential industrial contributors.
3. Coordinate with MNTAP to utilize their free source identification service.
4. Develop a sampling plan for Q3 2024 (MPCA funded).
5. Develop a baseline understanding of influent concentrations at the Owatonna WWTF and concentrations associated with process waste streams of Owatonna’s industries.

Community Outreach

1. Develop and distribute educational materials to your industrial users and domestic users. The distribution of this material could be in the form of a postcard, pamphlet mailings enclosure with utility bills and/or posting the PFAS information materials on the City’s website.

2. Prioritize implementation of activities to the target audience as part of the prevention and remediation plan.

PFAS Pollutant Minimization Plans

1. Develop and write the PFAS Pollutant Minimization Plan and coordinate revisions with the MPCA.

B. SCOPE OF SERVICES

Basic Services to be provided by Nero for this Project under this Agreement are as follows:

Source Identification
Develop sewer shed mapping plan
Coordination Meetings with MNTAP and MPCA
Community Outreach
Develop educational materials for industrial users
Develop educational materials for domestic users
Prioritize implementation activities
PFAS PMP
Develop PFAS PMP and coordinate revisions with the MPCA

C. PROJECT TIMING

Nero is prepared to begin the work immediately upon authorization.

Anticipated Schedule

- | | |
|--|----------------|
| • Coordination with MNTAP and MPCA | May, 2024 |
| • Develop sewer shed mapping plan | May, 2024 |
| • Data Analysis | May-June, 2024 |
| • Develop PFAS PMP | June, 2024 |
| • Submit PFAS PMP | June 28, 2024 |
| • Complete activities in management plan | by July 2026 |

PART II OWNER RESPONSIBILITIES

A. In addition to other responsibilities of Owner set forth in this Agreement, Owner shall:

1. Identify a person authorized to act as the Owner's representative to respond to questions and make decisions on behalf of Owner, accept completed documents, approve payments to Nero, and serve as liaison with Nero as necessary for Nero to complete its Services.
2. Furnish to Nero copies of existing documents and data pertinent to Nero's Scope of Services, including but not limited to and where applicable: design and record drawings for existing

facilities; property descriptions, land use restrictions, surveys, geotechnical and environmental studies, or assessments.

3. Provide to Nero existing information regarding the existence and locations of utilities and other underground facilities.
4. Provide Nero safe access to premises necessary for Nero to provide the Services.

PART III COMPENSATION, BILLING AND PAYMENT

- A. Compensation for the work as defined in the Scope of Services (Part I) of this Agreement shall be in accordance with Nero's standard chargeout rates in effect at the time the Services are performed (see the attached Fee Schedule). Routine expenses will be billed at cost and subconsultant costs will include a 10% markup. The total cost for these basic Services will not exceed \$9,620 without prior written approval from Owner.
- B. Nero will bill Owner monthly, with net payment due in 30 days.
- C. Nero will notify Owner if Project scope changes require modifications to the above-stated contract value. Services relative to scope changes will not be initiated without authorization from Owner.

PART IV

NERO ENGINEERING, LLC TERMS AND CONDITIONS

ARTICLE 1 - PAYMENTS TO NERO ENGINEERING

1.01 Other Provisions Concerning Payment

A. *Preparation of Invoices.* Invoices will be prepared monthly in accordance with Nero Engineering's standard invoicing practices and will be submitted to Owner by Nero Engineering, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Proposal or Task Order.

B. *Payment of Invoices.* Invoices are due and payable upon receipt. If Owner fails to make any payment due Nero Engineering for services and expenses within 30 days after receipt of their invoice therefore, the amounts due Nero Engineering will be increased at the rate of 1.5% per month (or the maximum rate of interest permitted by law, if less.) In addition, Nero Engineering may after giving seven days written notice to Owner, suspend services under this Agreement until Nero Engineering has been paid in full all amounts due for services, expenses, and other related charges. Design professionals shall not have any liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Client. Payments will be credited first to interest then to principal.

C. As required by the Construction Lien Law, Nero Engineering hereby notifies Owner that persons or companies furnishing labor or materials for the construction on Owner's land may have lien rights on Owner's land and buildings if not paid.

D. *Disputed Invoices.* If the Client objects to any portion of an invoice, the Client shall so notify the Design Professional in writing within 30 calendar days of receipt of the invoice. The Client shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated shall be paid by the Client on all disputed invoiced amounts resolved in the Design Professional's favor and unpaid for more than 30 calendar days after date of submission.

E. *Payments Upon Termination.* In the event of any termination under Paragraph 2.04, Nero Engineering will be entitled to invoice Owner and will be paid in accordance with Proposal for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

ARTICLE 2 - GENERAL CONSIDERATIONS

2.01 Standards of Performance

A. The standard of care for all professional services and related services performed or furnished by Nero Engineering under this Agreement will be the care and skill ordinarily used by members of their profession practicing under similar circumstances at the same time and in the same locality. Nero Engineering makes no warranties, expressed or implied, under this Agreement, in connection with their services.

B. Nero Engineering shall perform or furnish professional services and related services in phases of the Project to which this Agreement applies. Nero Engineering shall serve as Owner's prime professional for the Project. Nero Engineering may employ such Subconsultants as they deem necessary to assist in the performance or furnishing of the services. Nero Engineering shall not be required to employ any Subconsultant unacceptable to them.

C. Nero Engineering and Owner will endeavor to comply with applicable Laws or Regulations. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after Effective Date of this Agreement may be the basis or modifications to Owner's responsibilities or to Nero Engineering's scope of services, times of performance, or compensation.

D. Owner shall be responsible for, and Nero Engineering may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by Owner to Nero Engineering pursuant to this Agreement. Nero Engineering may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

E. Owner shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of Nero Engineering.

2.02 Use of Documents

A. All Documents are instruments of service in respect to this Project, and Nero Engineering shall retain an ownership and property interest therein (including the right of reuse at the discretion of Nero Engineering) whether or not the project is completed.

B. Copies of Documents that may be relied upon by Owner are limited to the printed copies (also known as hard copies) that are signed or sealed by Nero Engineering. Files in electronic media format of text, data, graphics, or of other types that are furnished by Nero Engineering to Owner are only for convenience of Owner. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Owner may make, and retain, and reuse copies of Documents for information and reference in connection with use on the Project by Owner with written permission from Nero Engineering. Such Documents are not intended or represented to be suitable for reuse by Owner or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by Nero Engineering, as appropriate for the specific purpose intended, will be at Owner's sole risk and without liability or legal exposure to Nero Engineering or its Subconsultants. Owner shall indemnify and hold harmless Nero Engineering and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

D. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

2.03 Insurance

A. Nero Engineering shall procure and maintain Professional Liability, General Liability, Workers Compensation, and Automotive Liability which are applicable to the Project

B. Owner shall procure and maintain General Liability and Property Insurance policies which are applicable to the Project.

2.04 Termination

A. The obligation to provide further services under this Agreement may be terminated:

1. *For cause*, by either party upon 30 days written notice in the event of substantial failure upon the other party to perform in accordance with the terms hereof through no fault of the terminating party

2. *For Convenience*, by Owner effective upon the receipt of notice by Nero Engineering.

2.05 Dispute Resolution

A. Owner and Nero Engineering agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice, prior to exercising their rights under provisions of this Agreement, or under law.

B. Mediation - In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Client and the Design Professional 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. The Client and the Design Professional further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers, or fabricators so retained, thereby providing mediation as the primary method for dispute resolution between the parties to those agreements.

2.06 Hazardous Environmental Condition

A. Owner represents to Nero Engineering that to the best of its knowledge, a Hazardous Environmental Condition does not exist.

B. Owner has disclosed to the best of its knowledge to Nero Engineering the existence of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Project Site, including type, quantity, and location.

C. It is acknowledged by both parties that Nero Engineering scope of services does not include any services related to asbestos or hazardous or toxic materials. In the event the Design Professional 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 the Design Professional's services, the Design Professional may, at his or her option and

without liability for consequential or any other damages, suspend performance of services on the project until the Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos or hazardous toxic materials, and warrant that the jobsite is in full compliance with applicable laws and regulations.

D. The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Design Professional, his or her officers partners, employees, agents and consultants from and against any and all claims, suits, demands, liabilities, losses, or cost, including reasonable attorneys' fees and defense costs, resulting or accruing to any and all persons, firms and any other legal entity, caused by, arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous toxic substances, products or materials that exist on, about or adjacent to the jobsite, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability or any other cause or action.

2.07 Allocation of Risks

A. Indemnification

1. To the fullest extent permitted by law, Nero Engineering shall indemnify and hold harmless Owner, Owner's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professions, and all court or arbitration or other dispute resolutions costs) caused solely by the negligent acts or omissions of Nero Engineering or its officers, directors, partners, employees in the performance and furnishing of Nero Engineering's services under this Agreement.

2. To the fullest extent permitted by law, Owner shall indemnify and hold harmless Nero Engineering, its officers, directors partners, employees, and Subconsultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of Owner or Owner's officers, directors, partners, employees, and Owner's Consultants with respect to this Agreement or the Project.

3. To the fullest extent permitted by law, Nero Engineering's total liability to Owner and anyone claiming by, through, or under Owner for any cost, loss or damages caused in part by the negligence of Nero Engineering and in part by the negligence of Owner or any other negligent entity or individual, shall not exceed the percentage share that Nero Engineering negligence bears to the total negligence of Owner. Nero Engineering, and all other negligent entities and individuals.

Design Fees and Expenses
PFAS PMP
Owatonna, MN

	Labor Hours		Expenses	Totals			
	Company> Role>	Nero PM/Process	Nero Process	Travel	LaborExpensesTotal		
	Hourly Rates >	200 Svennes	145 Hespanhol				
Source Identification							
Develop sewer shed mapping plan					4	4	1,38001,380
Coordination Meetings with MNTAP and MPCA					4	4	1,38001,380
Community Outreach							
Develop educational materials for industrial users					2	4	9800980
Develop educational materials for domestic users					2	4	9800980
Prioritize implementation activities					2	4	9800980
PFAS PMP							
Develop PFAS PMP and coordinate revisions with the MPCA					8	16	3,92003,920
Total					22	36	09,62009,620

Total Hours	22	36		
Individual Total Fees	4,400	5,220		9,620



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Jenna Tuma, Parks, Trails, Recreation & Facilities Director
Jesse Wilker, Parks Manager
SUBJECT: Award Seal Coat Project - 26th Street and River Springs Water Park Parking Lot

Purpose:

Approve Seal King as the successful bidder for the seal coat project.

Background:

As part of the City's annual Parks Pavement Management Plan, scheduled pavement maintenance is to be done to extend the life of the pavement. For 2024, the pavement at the River Spring Water Park parking lot (RSWP) and the paved trail segment along 26th Street from 4th Avenue NW to Dane Road are planned for crack filling and sealing. The St. Paul Road Trail will be bid in 2025.

Requests for quotes were sent out through the OpenGov Procurement software; Seal King was the only company to submit a proposal. Seal King is the low bid and meets minimum qualifications. \$39,187

The Park Maintenance operating budget is \$30,000 for pavement maintenance.

Budget Impact:

The \$39,187 will come from the Park Maintenance Operating Budget. Although it is over the Pavement Maintenance line item, staff will re-prioritize other line item funds to cover the difference.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Seal King RSWP Bid
2. Seal King Trails 26th St Bid



Proposal

SEAL KING®

CORPORATE OFFICE

2663 Cedar Lake Blvd., Faribault, MN 55021

507-676-7942

jhardysealking@gmail.com

Date

May 1, 2024

Completion Date

2024 SEASON

PROPOSAL SUBMITTED TO:

WORK TO BE PERFORMED:

Company: City of Owatonna/River Springs Water Park

Contact: Mike Klein

Street: 3065 St. Paul Road

City/State/Zip: Owatonna, MN 55060

Email: micheal.klein@ci.owatonna.mn.us

SPRING CLEAN

CRACK REPAIR (ROUT & NONROUT)

SEALCOAT:

1 COAT SPRAY(2 COAT SPRAY RECOMMENDED)

STRIPE

DESCRIPTION OF WORK TO BE PERFORMED:

SEALCOATING:

1. Power edge grass along both sides of asphalt creating a neat and manicured finish (if applicable).
2. High power blowers and rotating gas powered sweepers remove dirt and debris from asphalt surface prior to the application of Seal King sealer.
3. Oil Spots are lightly scuffed and treated with a special oil primer ensuring a good adhesive sealer bond over fresh oil.
4. Furnish and apply a heavy duty coat(s) of Seal King professional grade sealer.
5. Sealer will be applied using professional applications tools and equipment.

SQ FT

52,000

CLEAN

\$9,828.00

\$8,684.00

\$300

RECOMMENDED OPTION:
Perimeter brushed then
overlapping spray then 2nd coat
full spray application

Perimeter brushed then
overlapping spray
application

HOT CRACKFILLING:

ROUTED: All pavement cracks 1/4" and larger will be routed 3/4" wide/deep, cleaned of debris and filled with hot 400 degree professional crackfiller.

NON-ROUTED: All pavement cracks 1/4" and larger will be cleaned of debris and filled with hot 400 degree professional crackfiller.

HOT CRACKFILLING PRICE:

ROUT

4900 LINEAR FT

\$6,125.00

NONROUT

3300 LINEAR FT

\$3,102.00

HOT ASPHALT REPAIR:

Hot asphalt repairs using federally spec asphalt, apron repairs and patching.

ASPHALT REPAIR

X

REPLICATE EXISTING LINES AND MARKINGS

STRIPE

\$1,000.00

TOTAL COST:

2 COAT W/ ROUT

\$20,355.00

1 SPRAY W/ ROUT

\$19,211.00

1 SPRAY NONROUT

\$17,692.00

THE SEAL KING DIFFERENCE:

→ HIGH PERFORMANCE PRODUCTS

Liquid asphalt sealers in conjunction with high performance polymer additives and silica sand give our material the durability to stand up to extreme climate conditions. Our crackfillers are premium hot rubber material preventing water penetration that can cause heaving and shifting asphalt.

→ PROPER MIXING EQUIPMENT AND FACILITIES

Seal King stores 6,000 gallons of liquid asphalt sealer which is then pumped into a 1,000 gallon full-sweep agitator tank. Silica sand, high performance additives and water are blended together. Liquid meters calculate the exact amount of each ingredient. All products are stored in our climate-controlled warehouse.

CONDITION OF SALE:

1. THE TOTAL CONTRACT SHALL BE PAID UPON COMPLETION. THANK YOU.
2. Any balance unpaid after 30 days is subject to a finance charge of 18% per annum (1.5% per month).
3. This contract shall be completed with reasonable promptness by the Contractor, but the Contractor shall not be responsible for delays or failure in completion, caused by weather unfavorable to carrying out work involved, fire, explosion, failure of equipment, strikes, differences with workmen, compliance with orders of a government agency, interruption in delivery of materials, or from any cause beyond his reasonable control.
4. The contract price does include taxes (no extra charges).
5. The Contractor shall indemnify the Owner from all claims because of any damages sustained by any person or property on account of the operations of the Contractor in carrying out this contract.
6. This contract contains the entire agreement between the parties. There are no oral promises, agreements, or warranties affecting it. Any alteration or deviation from the above quantities and specifications or other changes in the contract must be made in writing, and executed by authorized representatives of the parties.

THE SEAL KING GUARANTEE:

Choosing Seal King ensures you will receive the highest quality products and professional service. If for any reason you are not satisfied with your Seal King application, call us before the end of the season and we will correct the problem at no extra cost to you!

Cost overrun will not exceed 10% of the total cost with approval of board and crew member

We Accept



***QUOTE VALID
FOR 15 DAYS***

ACCEPTED (Owner)		SEAL KING (Contractor)
BY (Signature of Authorized Representative)	DATE ACCEPTED	BY (Signature of Authorized Representative)
(TITLE)		PRESIDENT (TITLE)



Proposal

SEAL KING®

CORPORATE OFFICE

2663 Cedar Lake Blvd., Faribault, MN 55021

507-676-7942

jhardysealking@gmail.com

Date

May 1, 2024

Completion Date

2024 SEASON

PROPOSAL SUBMITTED TO:

WORK TO BE PERFORMED:

Company: City of Owatonna

Contact: Mike Klein

Street: 26th Street Trail

City/State/Zip: Owatonna, MN 55060

Email: micheal.klein@ci.owatonna.mn.us

26TH ST. TRAIL:

4TH AVE NW TO DANE ROAD:

CRACK REPAIR

SEALCOAT

DESCRIPTION OF WORK TO BE PERFORMED:

SEALCOATING:

1. Power edge grass along both sides of asphalt creating a neat and manicured finish (if applicable).
2. High power blowers and rotating gas powered sweepers remove dirt and debris from asphalt surface prior to the application of Seal King sealer.
3. Oil Spots are lightly scuffed and treated with a special oil primer ensuring a good adhesive sealer bond over fresh oil.
4. Furnish and apply a heavy duty coat(s) of Seal King professional grade sealer.
5. Sealer will be applied using professional applications tools and equipment.

SQ FT

95,040

\$15,777.00

SPRAY APPLICATION

HOT CRACKFILLING:

ROUTED: All pavement cracks 1/4" and larger will be routed 3/4" wide/deep, cleaned of debris and filled with hot 400 degree professional crackfiller.

NON-ROUTED: All pavement cracks 1/4" and larger will be cleaned of debris and filled with hot 400 degree professional crackfiller.

HOT CRACKFILLING PRICE:

HOT ASPHALT REPAIR:

NONROUT

3250 LINEAR FT

\$3,055.00

Hot asphalt repairs using federally spec asphalt, apron repairs and patching.

ASPHALT REPAIR

X

STRIPE

X

TOTAL COST:

\$18,832.00

THE SEAL KING DIFFERENCE:

→ HIGH PERFORMANCE PRODUCTS

Liquid asphalt sealers in conjunction with high performance polymer additives and silica sand give our material the durability to stand up to extreme climate conditions. Our crackfillers are premium hot rubber material preventing water penetration that can cause heaving and shifting asphalt.

→ PROPER MIXING EQUIPMENT AND FACILITIES

Seal King stores 6,000 gallons of liquid asphalt sealer which is then pumped into a 1,000 gallon full-sweep agitator tank. Silica sand, high performance additives and water are blended together. Liquid meters calculate the exact amount of each ingredient. All products are stored in our climate-controlled warehouse.

CONDITION OF SALE:

1. THE TOTAL CONTRACT SHALL BE PAID UPON COMPLETION. THANK YOU.
2. Any balance unpaid after 30 days is subject to a finance charge of 18% per annum (1.5% per month).
3. This contract shall be completed with reasonable promptness by the Contractor, but the Contractor shall not be responsible for delays or failure in completion, caused by weather unfavorable to carrying out work involved, fire, explosion, failure of equipment, strikes, differences with workmen, compliance with orders of a government agency, interruption in delivery of materials, or from any cause beyond his reasonable control.
4. The contract price does include taxes (no extra charges).
5. The Contractor shall indemnify the Owner from all claims because of any damages sustained by any person or property on account of the operations of the Contractor in carrying out this contract.
6. This contract contains the entire agreement between the parties. There are no oral promises, agreements, or warranties affecting it. Any alteration or deviation from the above quantities and specifications or other changes in the contract must be made in writing, and executed by authorized representatives of the parties.

THE SEAL KING GUARANTEE:

Choosing Seal King ensures you will receive the highest quality products and professional service. If for any reason you are not satisfied with your Seal King application, call us before the end of the season and we will correct the problem at no extra cost to you!

Cost overrun will not exceed 10% of the total cost with approval of board and crew member

We Accept



***QUOTE VALID
FOR 15 DAYS***

ACCEPTED (Owner)		SEAL KING (Contractor)
BY (Signature of Authorized Representative)	DATE ACCEPTED	BY (Signature of Authorized Representative)
(TITLE)		PRESIDENT (TITLE)



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Sean Murphy, Public Works Director
SUBJECT: Accept Proposals and Award Contract - Wastewater Treatment Facility 26th St Lift Station Panel Installation

Purpose:

Requesting City Council approval of the Wastewater Treatment Facility 26th St Lift Station Panel Installation proposals and contract awarding.

Background:

The City's lift stations were assessed in 2022 to understand the costs of implementing SCADA systems throughout our collections system and WWTF. With the WWTF expansion, SCADA integration will allow for more efficient management of our collections system. Lift station panels and components ranged in age, but a majority were at the end of their service life. Most were not cost-effective to simply convert or add components to allow for SCADA integrations. Many showed signs of corrosion as well as not complying with current code.

Budget Impact:

The contracted cost for the panel installation will be \$17,232.08. The project will be paid for using sewer funds.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Lift Station Control Panel Install Ltr of Award
2. Lift Station Panel Installation Bid Tab



May 15, 2024

Mr. Andrew Fischer
Wastewater Manager
City of Owatonna
540 West Hills Circle
Owatonna, MN 55060

**Re: Recommendation for Notice of Award
26th St Lift Station Control Panel Install Project**

Dear Mr. Fischer:

Pursuant to the authority of the Owatonna City Council and following proper legal advertisement, the opening of quotes for the 26th St Lift Station Control Panel Install Project was conducted on Friday, May 10, 2024 at 2:00 PM through electronic proposal submission process offered privately to three (3) electrical contractors deemed capable of performing the work. A total of three (3) sealed quotes were received for the project. Three of the three quotes submitted were completed in accordance with the project manual. The lowest quote was completed in accordance with the project manual.

The attached quote tabulation document presents a comparison of the quotes received and the Engineer's opinion of probable cost for the project. Based on a review of the proposals received and pending City official's acceptance of the contract price, Advanced Engineering and Environmental Services, Inc. (AE2S) recommends that the City award a construction contract to A&A Electric & Underground Construction Inc. Evaluating the quotes A&A Electric & Underground Construction was the lowest cost responsive and responsible quote received and for the quote price of \$17,232.08.

AE2S truly appreciates the opportunity to be able to continue working with the City of Owatonna on this important project for the City. Should you have any questions or comments please feel free to contact me.

Sincerely,

Mark Ruda, PE
Senior Project Engineer
AE2S

Owatonna Lift Station Panel Installation Quotes
Owatonna, MN
P05410-2023-002

2:00 PM, May 10, 2024



Contractor		Acknowledge Addendum 1	Certification of Proposers Experience	Quote Form	Total (Base Bid)
1	A&A Electric & Underground Const. Inc.	✓	✓	✓	\$17,232.08
2	Cole's Electric, Inc.	✓	✓	✓	\$32,000.00
3	Killmer Electric Company, Inc	✓	✓	✓	\$57,300.00
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15	Engineer Estimate				\$45,000.00



Advanced Engineering and Environmental Services, Inc.
Water Tower Place Business Center
6901 E Fish Lake Rd Ste 184
Maple Grove, MN 55369
Tel: 763-463-5036
Fax: 763-463-5037



DATE: May 21, 2024
TO: Mayor and City Council
FROM: Sean Murphy, Public Works Director
SUBJECT: Accept Proposals and Award Contract - Wastewater Treatment Facility 26th St Lift Station Panel Materials

Purpose:

Requesting City Council approval of the Wastewater Treatment Facility 26th St Lift Station Panel Materials proposals and contract awarding.

Background:

The City's lift stations were assessed in 2022 to understand the costs of implementing SCADA systems throughout our collections system and WWTF. With the WWTF expansion, SCADA integration will allow for more efficient management of our collections system. Lift station panels and components ranged in age, but a majority were at the end of their service life. Most were not cost-effective to simply convert or add components to allow for SCADA integrations. Many showed signs of corrosion as well as not complying with current code. The 26th Street Lift Station was selected to be replaced and moved forward with a closed quote process that included manufacturer qualifications.

Budget Impact:

The contracted cost for the panel installation will be \$74,944.00. The project will be paid for using sewer funds.

Staff Recommendation:

Staff recommends approval.

Attachments:

1. Lift Station Control Panels Ltr of Award
2. IPS Proposal - 26th Street Lift Station Procurement - Request for Proposals



May 9, 2024

Mr. Andrew Fischer
Wastewater Manager
City of Owatonna
540 West Hills Circle
Owatonna, MN 55060

**Re: Recommendation for Notice of Award
Lift Station Control Panel Improvements Project**

Dear Mr. Fischer:

Pursuant to the authority of the Owatonna City Council and following proper legal advertisement, the proposal opening for the Lift Station Control Panel Improvements Project was conducted on Thursday, May 9, 2024 at 2:00 PM through electronic proposal submission process offered privately to four (4) equipment manufacturers deemed capable of performing the work. A total of three (3) sealed quotes were received for the project. Two of the three quotes submitted were completed in accordance with the project manual. The one not in accordance was not the lowest price. The lowest bidder was completed in accordance with the project manual.

The proposal scoring tabulation at the end of this document presents a comparison of the proposals received and the Engineer's opinion of probable cost for the project. Based on a review of the proposals received and pending City official's acceptance of the contract price, Advanced Engineering and Environmental Services, Inc. (AE2S) recommends that the City award a construction contract to Integrated Process Solutions (IPS). Evaluating the proposal scoring IPS's proposal scored the highest and was the lowest cost responsive and responsible quote and for the quote price of \$74,944.00.

AE2S truly appreciates the opportunity to be able to continue working with the City of Owatonna on this important project for the City. Should you have any questions or comments please feel free to contact me.

Sincerely,

Mark Ruda, PE
Senior Project Engineer
AE2S

Proposal Scoring Sheet:

OWATONNA 26TH STREET LIFT STATION CONTROL PANEL PROCUREMENT									
Request for Proposals - Equipment									
City of Owatonna									
Weighted Scores: 1(Worst)-5(Best)									
	Weight	IPS Raw	Weighted	Wunderlich Malec Raw	Weighted	Primex Raw	Weighted	Total Control Raw	Weighted
Proximity to the plant, On-call availability	10%	5	0.5	4	0.4	N/A		N/A	
Number of On-call service staff	5%	4	0.2	5	0.25	N/A		N/A	
Flexibility On Components Due to Shortages	10%	5	0.5	5	0.5	N/A		N/A	
Prior Experience with City	5%	5	0.25	1	0.05	N/A		N/A	
Experience and Qualifications	15%	5	0.75	5	0.75	N/A		N/A	
Conformance to Specifications	25%	5	1.25	5	1.25	N/A		N/A	
Capital Cost	15%	5	0.75	1	0.15	3.0	0.45	N/A	
Ability to Deliver on Schedule	15%	5	0.75	5	0.75	N/A		N/A	
Total (5 is perfect)	100%		4.95		4.10		N/A		N/A
Proposed Price		\$74,944.00		\$108,000.00		\$81,004.00			
Engineer's Estimate: \$100,000									



Integrated Process Solutions, Inc.

Corporate Office:

34696 412 St SE • PO Box 26
Fosston, MN 56542
218.435.1703

Regional Offices:

Albany, MN - 320.345.1457
Waunakee, WI - 608.849.4375
www.ipsamerica.biz

May 8, 2024

Mr. Andrew Fischer
Wastewater Manager
540 West Hills Circle
Owatonna, MN 55060

Re: 26th Street Lift Station Procurement – Request for Proposals

IPS Project Number J002548

Dear Andrew,

We are pleased to offer this proposal for the 26th Street Lift Station Procurement. This cover letter includes information about IPS, and qualifications of proposer required for the project. Following this cover letter is our detailed proposal and the bid page from the specifications.

Company Information

IPS was incorporated in 2007 and founded by our current owner, Peter Nelson. IPS was started with three staff in Fosston, MN and has grown to its current size of 45 employees, with offices and/or staff locations in Minnesota, Wisconsin, South Dakota, Colorado, and Montana. Our production facility and headquarters is located in Fosston, MN, with brick-and-mortar offices in Albany, MN and Waunakee, WI. At IPS we believe the value of our company is made up by our employees, and their drive and determination to be the top performer in the industry. During our hiring process we have not limited our employee selection to geographical areas, which has allowed us to choose from a larger and more sophisticated pool of candidates to hire the best people. As of the date of this proposal, we employ the following number of staff in each category, which will allow us to properly complete, service, and maintain the City of Reedsburg.

<u>Area of Expertise</u>	<u>Number of Staff</u>	<u>Location</u>
Sales	3	WI, MN
Design/Engineering	9	MT, MN, WI, SD
AutoCAD	8	MT, MN, WI, CO
Programming	6	MN, WI
Field Service	5	MN, WI
Production/Testing	10	MN
Media/Administrative	4	MN, WI
Accounting/Clerical/Support	4	MN, WI

Qualifications of Proposers

- A. The address and description of the Proposers' place of business.

IPS Response:

- *IPS Main Office is located in Fosston, MN and is the main production facility for IPS that has 8 full time personal building various control panels and MCC's.*
- *IPS Remote Offices are located in Albany, MN & Waunakee, WI and has full time Engineering staff at each location.*

- B. Provide information about the geographic proximity of on-call service staff of the proposer.

IPS Response:

- *Jeff Lee – Farmington, MN*
- *Russ Toavs – Minneapolis, MN*
- *Walter Pelowski – Clearwater, MN*
- *Erik Olsen – Big Lake, MN*
- *Shane Volkman – Winona, MN*

- C. Provide the number of on-call service staff within 100 mile radius.

IPS Response: 5

- D. Submit examples of three projects in the last two years where component shortages occurred, how where these shortages overcome?

IPS Response:

- *Shakopee, MN*
 - *PLC components lead times were beyond completion milestones, IPS worked with distributors on locating equivalent components in order to meet project timelines.*
- *Edina, MN*
 - *PLC components lead times were beyond completion milestones, IPS identified this issue and pre-purchased required components.*
- *Grand Forks, ND*
 - *Project Instrumentation were long lead times, IPS identified this issue and pre-purchased required components prior to getting approvals for the Design Engineer and work with various distributors to come up with different solutions in lieu of the specified products.*

- E. Submit 3 recent projects in the last two years where projects were delivered on time, submit customer contact information.

IPS Response:

- *Shakopee, MN – Pumphouse #6*
 - *Tony Mayers 952-233-1528*
- *Edina, MN – Lift Station #6 Replacement*
 - *Nate Kaderlik 952-215-9446*
- *Mahnomen, MN – Green Acres Lift Station Project*
 - *Brian Buck 218-556-1660*

- F. The Proposers' performance record including the description, location, and telephone numbers of two panel installations by the Proposer not mentioned in prior questions.

IPS Response:

- *Fargo, ND – Built all the PLC control panels and network cabinets for the City of Fargo, ND new WTP and helped with the installation of these control panels.*
 - *Nick Sauer 701-241-1469*
 - *Otsego, MN - Build all the control panels, network panels, motor control centers, and supplied all the instrumentation for the Otsego WWTP, IPS is currently providing all the aforementioned materials for the new Otsego West WWTP.*
 - *Kurt Neidermeier 763-458-4219*
- G. Submit any present unknowns meeting the delivery date specified.
IPS Response: N/A
- H. Has the proposer done any prior projects in the city of Owatonna? If so, list the contact information and projects.
IPS Response: IPS is currently working as a system hardware supplier on the Owatonna WWTP Expansion Project. IPS is supplying all the electrical gear, control panels, motor control centers, network cabinets, and instrumentation for the entire project.
- I. Provide a comprehensive list of any exceptions to the published specifications.
IPS Response: None
- J. The number of years engaged in the contracting business under the present firm name, and the name of the state where incorporated.
IPS Response: IPS was founded in 2007 in Minnesota, 17 years
- K. A list of contracts which resulted in lawsuits.
IPS Response: None
- L. A list of contracts defaulted.
IPS Response: None
- M. A statement of the Proposer indicating whether or not the Proposer has ever filed bankruptcy while performing work of like nature or magnitude.
IPS Response: None
- N. Such additional information that will assist Buyer in determining whether the Proposer is adequately prepared to full the contract.
IPS Response: IPS is currently providing Electrical distribution equipment, controls and Instrumentation at the Owatonna Waste Water Treatment Plant Expansion Project. IPS is committed to the city of Owatonna and looks forward to providing integration services for the City of Owatonna for years to come.



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Date: May 7th, 2024

Project: 26th Street Lift Station

Project Engineer: AE2S – Maple Grove, MN office

Project Location: Owatonna, MN

Bid Date: May 9th, 2024 @ 2:00 CDT

IPS Project: J002548

Integrated Process Solutions, Inc. is pleased to provide the following proposal for the above referenced project following the specification sections and attached Bill-of-Material. Our proposal is based on all specified hardware and services as specified, we take no exceptions to the specifications and **acknowledge 1 addendums**.

Division 26 – Electrical

***Section 26 29 13 – Enclosed Controllers**

Division 40 – Process Integration

Section 40 61 13 – Process Control System General Requirements

Section 40 63 13 – Process Control Panels and Hardware

Section 40 63 43 – Programmable Logic Controllers

Section 40 66 53 – Radio and Telemetry Equipment

Section 40 70 01 – Instrumentation General Requirements

Section 40 72 00 – Level Measurement

Section 40 74 00 – Temperature Measurement

Section 40 63 13 – Position and Motion Measurement

** Section applicable only to Control Panels, and Instrumentation equipment noted in this proposal.*

This proposal is valid for 30 days from the date above and is subject to change after the indicated date.

Thank you for the opportunity to provide this proposal for your consideration. Should you have questions, please contact me at 320-345-1457.

Best regards,

Ryan Sauerer
Integrated Process Solutions, Inc.

**26th Street Lift Station
Owatonna, MN
Bill-of-Materials**

Lift Station Control Panel

1. Lift Station Control Panel as Specified and Shown in the Electrical Drawings

- a. (1) Lift Station Control Panel
 - i. NEMA 4X, Stainless Steel Freestanding Double Sided Enclosure with Associated Sub Panel
 - ii. Enclosure Carbon Steel Inner Swing Doors
 - iii. Enclosure 18" Leg Kit with Louvered Skirting
 - iv. UL698A Listed Enclosure
 - v. 200A/3P Main and Emergency Circuit Breakers with Mechanical Interlock
 - vi. Enclosure 400W Heater - One for Each Side of the Enclosure
 - vii. Enclosure Fan & Filter Kit with Stainless Steel Rain Hoods
 - viii. Enclosure Working LED Lights – One on Each Side Of the Enclosure
 - ix. Enclosure 480V Surge Protection Device
 - x. Enclosure Power Monitor
 - xi. (3) Manufacture Sized Disconnects for Each Soft Starter
 - xii. (3) 40HP Soft Starters with Internal Bypass Contactor
 - xiii. (3) Pump Protection Modules - Provided by Pump Suppliers
 - xiv. Incoming 120V Surge Protection Device
 - xv. 3kVA Control Power Transformer
 - xvi. (2) 24VDC Power Supply
 - xvii. Fortinet Cellular Router as Described in Section 40 66 53I
 - xviii. 1000VA UPS with Industrial Relay Card
 - xix. Allen Bradley ControlLogix PLC with Associated Remote I/O Modules
 - xx. Allen Bradley 7" Operator Interface Standard
 - xxi. Ambient Air Temperature Transmitter
 - xxii. 5-Port Unmanaged Ethernet Switch
 - xxiii. LED Pilot Devices Mounted on the Inner Swing Door
 - xxiv. Required Terminal Blocks and Terminal Block Jumpers
 - xxv. Required Fuse Holders and Fuses
 - xxvi. Required Grounding Equipment

2. Lift Station Instrumentation as Specified and Shown in the Electrical Drawings

- a. (1) Radar Level Transmitter with Wetwell Mounting Bracket
- b. (1) High & Low Level Float Switches
- c. (1) 12lbs Anchor, Stainless Steel Cable, Stainless Steel Cable Clips, Etc.....

Project Spares

1. Project Spares as Specified and Shown in the Electrical Drawings

- a. (6) Spare Pilot Device LEDs of Each Type
- b. (6) Spare Fuses of Each Type

Our Price for the Bill-Of-Materials Above is \$74,944.00, Excluding Taxes. Freight Is Included.

General Services and Exclusions

1. General Services

- a. Complete submittals and system drawings.
- b. Panel fabrication & UL listing.
- c. Factory testing of control panels.
- d. O&M manuals.
- e. Standard one-year warranty for all equipment, with extended warranty for items as detailed in individual product specifications.
- f. Delivery of equipment to the jobsite (unloading by others).

2. Exclusions

- a. Any mounting equipment or hardware for the control panels.
- b. Any PLC, OIT, or HIM programming services.
- c. Any SCADA programming services.
- d. Any conduits between control panels and field devices.
- e. Any demolition of any equipment whatsoever.

- f. Any fiber optic cable or fiber optic terminations.*
- g. Any programming of any OEM provided equipment.*
- h. Any disconnects for any electric actuators.*
- i. Any generators or generator receptacles.*
- j. Performance, payment, or equipment bonds.*
- k. Permits of any kind.*
- l. Installation materials such as equipment racks, mounting hardware, brackets, stands, or hangers, unless specifically noted in this proposal.*
- m. Conduit and wire.*
- n. Control wiring external to equipment included in this proposal.*
- o. Terminations of field wiring in control panels or at the field device.*
- p. Cable raceways.*
- q. Demolition of equipment.*
- r. Equipment pads.*
- s. Ground resistance testing.*
- t. Electrical studies or third-party testing.*
- u. Junction boxes, unless specifically noted in this proposal.*
- v. Field Wiring.*
- w. Mechanical Installation.*
- x. Pumps, Piping, and Fittings.*
- y. Valves, unless specifically noted in this proposal.*
- z. Heating, ventilating, and air conditioning equipment or temperature controls.*