

**CITY OF HASTINGS
CITY COUNCIL AGENDA**

Monday, August 21, 2023

7:00 p.m.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. ROLL CALL**
- IV. DETERMINATION OF QUORUM**

Sue Vento, Metropolitan Council

- V. APPROVAL OF MINUTES**

Approve Minutes of the City Council workshop and regular meeting on August 7, 2023.

- VI. COMMENTS FROM THE AUDIENCE**

Comments from the audience may include remarks about items listed on the Consent Agenda.

- VII. COUNCIL ITEMS TO BE CONSIDERED**

- VIII. CONSENT AGENDA**

The items on the Consent Agenda are items of routine nature or no perceived controversy to be acted upon by the City Council in a single motion. There will be no discussion on these items unless a Councilmember so requests, in which event the items will be removed from the Consent Agenda to the appropriate Department for discussion.

1. Pay Bills as Audited
2. Special Event Designation: Historic Hastings Car Show – Date Addition
3. Appoint Public Safety Advisory Commissioner Mary Nehring
4. 2023 2nd Quarter Financial Report
5. Authorize Signature: 2nd Amendment to Development Agreement – Heritage Ridge 3rd Addition
6. Resolution: Minor Subdivision – City of Hastings – Spiral and Glendale
7. Authorize Signature: Agreement for Professional Services and Business Associate Addendum for Protected Health Information with Emergency Service Perspectives
8. Approve Pay Estimate No. 3 for the 2023 Neighborhood Infrastructure Improvements Project – BCM Construction, Inc. (\$578,940.10)
9. Approve Labor Agreement with Local 49ers (2024 –2026)
10. Authorize Signature: Monsido Agreement (2024-2026)
11. Authorize Signature: Artwork Leasing Agreement with Dale Lewis

- IX. AWARDING OF CONTRACTS AND PUBLIC HEARING**

These are formal proceedings that give the public the opportunity to express their concern, ask questions, provide additional information, or support on a particular matter. Once the public hearing is closed, no further testimony is typically allowed and the Council will deliberate amongst itself and with staff and/or applicant on potential action by the Council.

- X. REPORTS FROM CITY STAFF**

These items are intended primarily for Council discussion and action. It is up to the discretion of the Mayor as to what, if any, public comment will be heard on these agenda items.

- A. Public Works**
- B. Parks and Recreation**
 - 1. Agreement Amendment #1 with Apex Facility Solutions, LLC
- C. Community Development**
- D. Public Safety**
- E. Administration**
 - 1. Administration of Absentee Ballots
 - 2. Budget Pre-Approval of Pick-Up Trucks
- XI. UNFINISHED BUSINESS**
- XII. NEW BUSINESS**
- XIII. REPORTS FROM CITY COMMITTEES, OFFICERS, COUNCILMEMBERS**
- XIV. ADJOURNMENT**

Next Regular City Council Meeting: Tuesday, September 5, 2023 7:00 p.m.

Hastings, Minnesota
City Council Workshop
August 7, 2023

The City Council of the City of Hastings, Minnesota met in a workshop on Monday, August 7, 2023 at 5:30 p.m. in the Volunteer Room at the Hastings City Hall, 101 East 4th Street, Hastings, Minnesota.

Members Present: Mayor Fasbender, Councilmembers Folch, Fox, Haus, Lawrence, Leifeld, Pemble

Members Absent: None

Staff Present: City Administrator Dan Wietecha
Interim Public Works Director Ryan Stempski
Assistant City Administrator Kelly Murtaugh
Community Development Director John Hinzman

Mayor Fasbender called the workshop to order at 5:30 p.m., welcoming Council members and Public Works Director Ryan Stempski to provide an update on PFAS. Stempski provided an outline of the topics to be presented: status of the environmental review, the goals, an evaluation of the options to address the issue, the costs associated with the preferred option, funding sources, and next steps.

Stempski reminded Council that the current measurement standards that the six City wells adhere to the current index and levels have been steady. However, the new standards are expected to be released by the end of this year.

Stempski reported on the status of the Environmental Review by MPCA. Phase 1 is complete and Phase 2 has started. They meet monthly to discuss the activities. The deliverables that we are waiting on include modeling results, MGS complexities, and investigations of other potential sites.

The study goals are to evaluation options to mitigate PFAS from drinking water, update the water model to determine feasibility and cost estimates, and provide recommendations on the most cost-effective solution.

The options include blending existing wells to dilute below the limits, construct deeper wells, purchase treated water from St. Paul Regional Water Services, or implement treatment on existing wells. Treatment is the only feasible option. Several treatment options were reviewed to treat PFAS and continue to treat nitrates. The most common treatment technologies include Granular Activated Carbon (GAC) and Ion Exchange (IX). The next recommendation is that the system be decentralized (three vs one plant). This is preferred because the construction can be phased, it provides operational flexibility and resiliency, wells can continue to pump into existing pressure zones, and existing distribution mains are adequately sized.

Treatment facilities can be built alongside existing wells on City property and would be located to accommodate City growth.

Stempski indicated that the City needs to consider not only project costs but also the operation and maintenance costs. The capital cost for the treatment facilities is expected to be nearly \$70M, with annual operating and maintenance costs estimated to be \$800K to \$1M. The Veteran's Home wells also have PFAS concerns and the City may also serve this location in the future.

The potential funding sources include water rates, 3M settlement funds, funds approved in the Governor's Budget, bonding through the state legislature, federal funding through the Community Projects Funds or infrastructure law, or the state project priority list.

Stempski indicated that a lot of groundwork has been done to put the City in a good position to continue moving forward. They will continue working with the Co-Trustees of the 3M settlement funds and environmental attorney, prepare for upcoming state/federal grants, and continue to be transparent with the public about the upcoming advisory and progress toward treatment. Council support to continue these steps will be needed.

Council discussion on transparency and communication with residents and general support for continuing to move forward.

The workshop adjourned at 6:47 pm.

Mary D. Fasbender, Mayor

Kelly Murtaugh, City Clerk

Hastings, Minnesota
City Council Meeting Minutes
August 7, 2023

The City Council of the City of Hastings, Minnesota met in a regular meeting on Monday, August 7, 2023 at 7:00 p.m. in the Council Chambers at the Hastings City Hall, 101 East 4th Street, Hastings, Minnesota.

Members Present: Mayor Fasbender, Councilmembers Folch, Fox, Haus, Lawrence, Leifeld, and Pemble

Members Absent: None

Staff Present: City Administrator Dan Wietecha
Assistant City Administrator Kelly Murtaugh
City Attorney Kori Land
Community Development Director John Hinzman
Community Development Intern Madelyn Swanson

Oath of Office:
Tim Lawrence, Ward 4 Councilmember

Sue Vento, Metropolitan Council – rescheduled for August 21, 2023

Approval of Minutes

Mayor Fasbender asked if there were any additions or corrections to the minutes of the City Council regular meeting on July 17, 2023 and the special meetings on July 24, 2023 and July 25, 2023.

Minutes were approved as presented.

Consent Agenda

Councilmember Pemble motioned to approve the Consent Agenda as presented, seconded by Councilmember Haus.

7 Ayes, 0 Nays

1. Pay Bills as Audited
2. Resolution No. 08-01-23: Accept Donation from the Hastings Class of 1988 to the Parks and Recreation Department
3. Resolution No. 08-02-23: Approve One-Day Temporary Charitable Gambling Request for St. Elizabeth Ann Seton
4. Resolution No. 08-03-23: Approve Commercial Waste Hauler License for Hidden Haven LLC dba Redbox+ Dumpsters of Twin Cities South Metro
5. Authorize Signature: Utility Abandonment Agreement – KFC
6. Committee Appointments
7. Authorize Signature: Escrow Agreement – Augustine Farms LLC
8. Authorize Signature: Artwork Leasing Agreement with Dale Lewis

City Hall Project

Resolution No. 08-04-23: Award Contract – City Hall Annex Roof

Resolution No. 08-05-23: Award Contract – City Hall Masonry

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Resolution No. 08-06-23: Award Contract – City Hall Plaster Repair and Vapor Barrier

Hinzman provided an overview of the renovation requests that are part of the larger City Hall project. The City has secured State funds to support the renovation costs for these projects. The bids have come in and have been reviewed by staff.

Council discussion on who oversees the contractors for these projects, the remaining project bids, and cost estimates for those remaining projects. Hinzman indicated Miller Dunwiddie Architecture is the general contractor for these projects. Miller Dunwiddie Architecture assembled the contract documents for bids and will provide oversight of the crews.

Councilmember Folch motioned to approve as presented, seconded by Councilmember Haus.
7 Ayes, 0 Nays.

Marijuana Usage in Parks and Public Spaces

Wietecha referenced the recent recreational marijuana legislation and the initial focus on licensing and zoning. The law does not allow adult use of cannabis in public spaces (parks, sidewalks), but there is no penalty associated with use. Cities are allowed to determine the extent of public use. The City of Hastings has a 2007 tobacco free policy in parks that could be reviewed and expanded into an ordinance. It is recommended that this be referred to the Parks & Recreation Commission.

Council discussion on which Commission to refer this topic to for deliberation, indicating Public Safety Advisory Commission as another option.

Councilmember Fox motioned to a move deliberation to Parks & Recreation Commission and make unified with the tobacco-free policy in parks, seconded by Councilmember Lawrence.

Council discussion on keeping the Parks and Recreation Commission to just the smoking of marijuana since beer and wine are allowed in the parks presently. Council discussion on supporting medical marijuana use throughout the discussions the Commission has as well.

7 Ayes, 0 Nays.

Resolution No. 08-07-23: Special Use Permit – Neighborhood Commercial (315 Pine Street)

Hinzman provided an overview of the Special Use Permit request. Limited uses of Neighborhood Commercial are allowed and has worked in the past. The SUP would allow for the first floor of the building to be used for social gatherings, with the remaining floors of the building would be residential. The Planning Commission has reviewed and recommended the SUP. During a public hearing, some neighboring residents expressed concern about potential parking issues.

Council discussion on the timing of the reconstruction and the impact of the SUP on that timing. Council discussion on change of ownership throughout the years. Hinzman indicated the property owner purchased the property a few years ago and has been working on improvements such as the structural integrity of the building, continued demolition as well as approval of the architectural plans by the Heritage Preservation Commission. Hinzman indicated the intent is continue project to the point where the building

will be covered for the winter months to avoid additional damage. Additional concerns raised to councilmembers about parking due to speed of motorists on 4th Street.

Councilmember Leifeld motioned to approve as presented, seconded by Councilmember Fox. 7 Ayes, 0 Nays.

Downtown Parking Study

Hinzman introduced Maddie Swanson who is interning with the Community Development Department. Swanson provided the history of parking studies in the City. Swanson provided map visuals to create distinct areas for the study. The goal was to continue calculating the average usage of parking spots in the downtown area. Swanson highlighted the changes since the 2021 study. Approximately 33% of available parking spaces are used during the weekday times studied. Highest usage areas are 2nd Street (between Hwy 61 and Sibley), City Hall parking lot, and the downtown parking lot. Swanson closed with a comment about the Makers Market.

Council discussion on the number of public versus private parking spots. Council expressed appreciation for the study and Swanson's work on Makers Market. Council emphasized main points from the study that the City's parking is free and underutilized. Council discussed whether the study was done with evening and weekend data, expressing an additional study to include that information may be helpful. Council wished Maddie well as her internship comes to an end.

Micromobility Permit Update

Hinzman provided an update on Spin and Bird Rides Scooters. Council had asked for a mid-year update since two vendors were approved. Bird Rides Scooters did not execute the contract this year. Spin is the only vendor to follow-through on approval. The Spin manager is in the Twin Cities area and manages fleets in several cities. Council wanted PSAC and staff to comment on the usage and some of the feedback includes lack of availability in certain areas of the City, riders not following road rules, underage riders, and scooters left in inconvenient places. Hinzman indicated that there have not been many complaints. Spin management indicates that the utilization rate is strong.

Council discussion on usage, underage riders, and liability.

Approve Change Order No. 1 – City Hall HVAC Project

Hinzman reminded Council of the approval of the HVAC project earlier. As the project was getting close, several issues were identified that led to an alternate plan. The request is to increase the funds available to take advantage of the proximity of City Hall and the Police Department and put the new system in the Police Department to handle the HVAC needs of both buildings. This would realize savings in the future as the Police Department boilers need to be replaced in the next two years and reduce costs for installation in City Hall.

No Council discussion.

Councilmember Pemble motioned to approve as presented, seconded by Councilmember Lawrence.

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7 Ayes, 0 Nays.

Announcements

- Summer Rec Programs at Levee Park...
 - Wednesday, August 9, Storytime in the Park with the theme “Numbers.” A partnership with Pleasant Hill Library.
 - Thursday, August 10, Music in the Park with “Hailey James Band – Country.” Supported by the Ruth and George Doffing Charitable Fund.
 - Thursday, August 17, Music in the Park with “Chico Chavez Orchestra - Cumbia.” Supported by the Ruth and George Doffing Charitable Fund.
 - Friday, August 18, Movie in the Park “DC League of Super Pets.” Sponsored by Ardent Mills. Please bring a non-perishable food donation.
- The Rec + Art + Police will be at Roadside Park on Wed, August 9, featuring nature printing and inflatable hungry hippos. Recommended for elementary and middle schoolers. Supported by SC Toys, Country Financial, Hastings Lions Club, Hastings Family Service, Community Ed, and Hastings Prescott Arts Council.
- Makersway Alley Market will be in Levee Park on Thursday, August 10. Support area makers and artisans within our historic downtown and riverfront park by shopping at the markets.
- Concerts in the Orchard at the LeDuc Historic Estate will feature “Shotgun Johnson and the Mississippi 7” on August 13 and “Darlene and the Boys” on August 20. Sponsored by Merchants Bank.
- Ride the 10-mile loop guided by a Park Ranger on Saturday, August 19. Learn history and wildlife fun facts. Free event with pre-registration required. Recommended for teens and adults. A partnership with National Park Service.

Meetings

- Finance Committee Meeting on Wednesday, August 9, 2023 at 5:00 p.m.
- Arts & Culture Commission Meeting on Wednesday, August 9, 2023 at 6:00 p.m.
- HEDRA Meeting on Thursday, August 10, 2023 at 6:00 p.m.
- Operations Committee Meeting on Monday, August 14, 2023 at 7:00 p.m.
- Planning Commission Meeting on Monday, August 14, 2023 at 7:00 p.m. - Cancelled
- Heritage Preservation Commission Meeting on Tuesday, August 15, 2023 at 7:00 p.m.
- Finance Committee Meeting on Wednesday, August 16, 2023 at 5:00 p.m.
- Parks and Recreation Commission Meeting on Wednesday, August 16, 2023 at 6:00 p.m.
- City Council Regular Meeting on Monday, August 21, 2023 at 7:00 p.m.

Councilmember Fox motioned to adjourn the meeting at 8:04 PM, seconded by Councilmember Folch. Ayes 7; Nays 0.

Kelly Murtaugh, City Clerk

Mary D. Fasbender, Mayor

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City Council Memorandum

To: Mayor Fasbender & City Council Members

From: Connie Lang – Accountant

Date: 08/17/2023

Item: Disbursements

Council Action Requested:

Staff requests:

Council review of July 2023 CenterPoint, Xcel, Wex, Health Insurance payments.

Council review of weekly routine disbursements issued 08/15/2023.

Council approval of routine disbursements, capital purchases and employee reimbursements to be issued 08/22/2023.

Background Information:

Disbursements for routine items are made weekly. Disbursements for capital purchases and employee reimbursements are made twice a month, subsequent to Council approval.

Financial Impact:

July 2023 Centerpoint Payment	\$	4,855.56
July 2023 Xcel Payment	\$	50,720.15
July 2023 Wex Admin Fee Payment	\$	288.75
July 2023 Health Ins Payment	\$	171,268.21
Disbursement Checks & EFT on 08/15/2023	\$	370,840.21
Disbursement Checks, Hedra & EFT to be issued on 08/22/2023	\$	123,317.49

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments: • Disbursement Reports

CENTERPOINT ENERGY**July Payment**

Dept	Account	Amount
Police	101-140-1403-6345	89.17
City Hall	101-140-1404-6345	300.63
City Storage	101-140-1407-6345	125.42
Alt Learning Ctr	101-401-4143-6345	108.13
Parks	200-401-4440-6345	172.71
Jt Maint	200-401-4447-6345	297.15
Pool	201-401-4240-6345	72.95
Fire	213-210-2100-6345	472.85
Le Duc	220-450-4160-6345	299.53
Water	600-300-3300-6345	318.12
Water	600-300-3302-6345	284.43
Garage	601-300-3400-6345	220.53
Arena	615-401-4103-6345	2093.94
		4855.56

XCEL AUTOMATIC PAYMENTS
July 2023 Payments

Xcel Acct #	Amount	Date Paid	Account #
51-6960213-7	3,669.09	3-Jul	101-140-1403-6343
51-6960208-0	1,559.18	14-Jul	101-140-1404-6343
51-8110141-1	18.35	14-Jul	101-140-1407-6343
51-6960219-3	59.23	13-Jul	101-201-2016-6343
51-6960210-4	160.84	14-Jul	101-300-3100-6343
51-6960210-4	804.21	14-Jul	101-301-3200-6343
51-0263715-0	184.53	14-Jul	101-302-3201-6343
51-0011278454-9	36.56	14-Jul	101-302-3201-6343
51-6960218-2	13,653.93	20-Jul	101-302-3201-6343
51-6960215-9	1,147.73	12-Jul	200-401-4440-6343
51-0011082067-5	176.86	14-Jul	200-401-4440-6343
51-0010048093-4	15.40	14-Jul	200-401-4440-6343
51-6960220-6	861.46	13-Jul	200-401-4447-6343
51-6960209-1	3,165.83	3-Jul	201-401-4240-6343
51-6960214-8	1,082.65	13-Jul	213-210-2100-6343
51-7216831-9	413.34	14-Jul	220-450-4160-6343
51-6960216-0	16,279.94	3-Jul	600-300-3300-6343
51-6960210-4	643.37	14-Jul	600-300-3300-6343
51-6960216-0	5,737.38	3-Jul	600-300-3302-6343
51-6960217-1	<u>1,050.27</u>	10-Jul	601-300-3400-6343
TOTAL	50,720.15		

WEX PAYMENTS

VIII-01

July Payment

Description	Account #	Amount
Employer Paid HRA/HSA Admin Fee - Administration	101-105-1051-6131	8.25
Employer Paid HRA/HSA Admin Fee - City Clerk	101-107-1071-6131	10.59
Employer Paid HRA/HSA Admin Fee - Finance	101-120-1201-6131	19.25
Employer Paid HRA/HSA Admin Fee - Maintenance	101-140-1401-6131	0.00
Employer Paid HRA/HSA Admin Fee - Planning	101-150-1501-6131	2.75
Employer Paid HRA/HSA Admin Fee - IT	101-160-1601-6131	5.50
Employer Paid HRA/HSA Admin Fee - Police	101-201-2010-6131	93.50
Employer Paid HRA/HSA Admin Fee -Building Safety	101-230-2301-6131	11.00
Employer Paid HRA/HSA Admin Fee-Code Enforcement	101-230-2302-6131	2.75
Employer Paid HRA/HSA Admin Fee - Engineering	101-300-3100-6131	6.46
Employer Paid HRA/HSA Admin Fee - Streets	101-301-3200-6131	12.10
Employer Paid HRA/HSA Admin Fee - Parks	200-401-4440-6131	27.50
Employer Paid HRA/HSA Admin Fee - Aquatic	201-401-4240-6131	0.00
Employer Paid HRA/HSA Admin Fee - Cable	205-420-4201-6131	0.41
Employer Paid HRA/HSA Admin Fee - Historical	210-170-1702-6131	0.69
Employer Paid HRA/HSA Admin Fee - Fire	213-210-2100-6131	9.76
Employer Paid HRA/HSA Admin Fee - Ambulance	213-220-2200-6131	39.74
Employer Paid HRA/HSA Admin Fee - Leduc	220-450-4160-6131	0.00
Employer Paid HRA/HSA Admin Fee - HRA	404-500-6003-6131	0.00
Employer Paid HRA/HSA Admin Fee - Econ. Develop.	407-180-6003-6131	2.06
Employer Paid HRA/HSA Admin Fee - Water	600-300-3300-6131	12.65
Employer Paid HRA/HSA Admin Fee - Wastewater	601-300-3400-6131	8.94
Employer Paid HRA/HSA Admin Fee - Storm Water	603-300-3600-6131	7.98
Employer Paid HRA/HSA Admin Fee - Arena	615-401-4103-6131	5.50
Employer Paid HRA/HSA Admin Fee - Hydro	620-300-3500-6131	1.38
	TOTAL	288.75

**Medica Health Insurance Premiums
July 2023**

VIII-01

ACCOUNT DESCRIPTION	ACCOUNT #	Amount
Medical Insurance Withholding	101-000-0000-2185	15,522.51
COBRA Paid Insurance	101-000-0000-2185	6,703.89
Employer Paid Health Ins. - Administration	101-105-1051-6131	723.81
Employer Paid Health Ins. - Communications	101-107-1061-6131	1,378.53
Employer Paid Health Ins. - City Clerk	101-107-1071-6131	2,329.83
Employer Paid Health Ins. - Finance	101-120-1201-6131	4,125.83
Employer Paid Health Ins. - Maintenance	101-140-1401-6131	1,695.27
Employer Paid Health Ins. - Planning	101-150-1501-6131	992.67
Employer Paid Health Ins. - IT	101-160-1601-6131	3,777.41
Employer Paid Health Ins. - Police	101-201-2010-6131	35,936.79
Employer Paid Health Ins. -Building Safety	101-230-2301-6131	5,174.96
Employer Paid Health Ins.-Code Enforcement	101-230-2302-6131	1,621.80
Employer Paid Health Ins. - Engineering	101-300-3100-6131	2,249.73
Employer Paid Health Ins. - Streets	101-301-3200-6131	3,628.89
Medical Insurance Withholding	200-000-0000-2185	2,085.18
Employer Paid Health Ins. - Parks	200-401-4440-6131	11,067.70
Medical Insurance Withholding	205-000-0000-2185	104.26
Employer Paid Health Ins. - Cable	205-420-4201-6131	243.27
Employer Paid Health Ins. --Heritage	210-170-1702-6131	180.95
Medical Insurance Withholding	213-000-0000-2185	4,747.63
Employer Paid Health Ins. - Fire	213-210-2100-6131	4,003.05
Employer Paid Health Ins. - Ambulance	213-220-2200-6131	16,025.32
Medical Insurance Withholding	220-000-0000-2185	128.22
Employer Paid Health Ins. - Leduc	220-450-4160-6131	299.16
Medical Insurance Withholding	407-000-0000-2185	578.33
Employer Paid Health Ins. - Econ. Dev.	407-180-6003-6131	1,349.43
Medical Insurance Withholding	600-000-0000-2185	290.60
Employer Paid Health Ins. - Water	600-300-3300-6131	4,775.03
Medical Insurance Withholding	601-000-0000-2185	282.08
Employer Paid Health Ins. - Wastewater	601-300-3400-6131	3,454.43
Medical Insurance Withholding	603-000-0000-2185	629.62
Employer Paid Health Ins. - Storm Water	603-300-3600-6131	3,433.26
Medical Insurance Withholding	615-000-0000-2185	695.06
Employer Paid Health Ins. - Arena	615-401-4103-6131	2,424.81
Employer Paid Health Ins. - Hydro	620-300-3500-6131	402.30
Employer Paid Health.Ins. - Retirees	701-600-6002-6131	<u>28,206.58</u>
	TOTAL	171,268.21

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
CITY CLERK	GENERAL	I/O SOLUTIONS, INC.	FAX ANSWER SHEETS FOR SCOR	100.00
		MINNESOTA OCCUPATIONAL HEALTH	PRE-EMPLOYMENT DRUG SCREEN	299.01
		ASL INTERPRETING SERVICES, INC.	INTERPRETING SERVICES-TEST	135.00
			TOTAL:	527.00
FACILITY MANAGEMENT	GENERAL	GILBERT MECHANICAL CONTRACTORS, INC.	PD LUNCH ROOM ACTUATORS/VA	4,379.72
		HOMETOWN ACE HARDWARE	P.D. SCREWS	4.27
		DOWNTOWN TIRE & AUTO	F.C. TRUCK REPAIRS	616.49
		STATE SUPPLY CO	C.H. BOILER PARTS	63.17
		TERRYS HARDWARE, INC.	F.C. SUPPLIES AND TOOLS	26.65
			TOTAL:	5,090.30
I.T.	GENERAL	LOGIS/LOCAL GOVERNMENT INFORMATION SYS	CISCO CSE ANNUAL MTC/4 ENT	2,885.50
			CISCO CSE ANNUAL MTC/4 ENT	60.00
		MARCO TECHNOLOGIES, LLC	PHONE SYSTEM VIRTUALIZATIO	2,494.84
		DAKOTA COUNTY FINANCIAL SERVICES	AUGUST IT SERVER LEASE	250.00
	TOTAL:	5,690.34		
POLICE	GENERAL	DAKOTA COUNTY FINANCIAL SERVICES	2023 ANNUAL FEE - ECU	21,000.00
		STALKER RADAR	REPAIRS TO RADAR SQUAD 141	368.25
		SCHILLER CONSTRUCTION SERVICES	HPD KITCHEN REMODEL	16,344.94
		SHRED RIGHT	JULY - 2 SERVICE FEES	17.73
		DAKOTA 911	DCC FEE / 2023 SEPTEMBER	29,679.33
			TOTAL:	67,410.25
BUILDING & INSPECTIONS	GENERAL	KLETSCCHKA INSPECTIONS, LLC	ELECTRICAL INSPECTIONS	7,669.60
			TOTAL:	7,669.60
PUBLIC WORKS	GENERAL	FOCUS ENGINEERING, INC.	PW EXPERT & CONSULTANT	7,950.00
			TH 61 STUDY	1,110.00
			TOTAL:	9,060.00
PUBLIC WORKS STREETS	GENERAL	TRI-STATE BOBCAT, INC.	HARNES	305.89
			HOSES, HYDRAULIC FLUID	339.51
		ASTECH / ASPHALT SURFACE TECHNOLOGIES	2023 S METRO JPA-DRIVEWAY	10,200.00
		PRECISE MOBILE RESOURCE MGMT. LLC	2023-06 SUBSCRIPTION	150.00
		FOCUS ENGINEERING, INC.	STREETS EXPERT & CONSULTAN	1,440.00
		HOMETOWN ACE HARDWARE	MISC FASTENERS	18.32
		MIDWEST MACHINERY CO	THERMOSTAT PARTS & SERVICE	1,498.12
			GROMMET	4.32
		HI-LINE ELECTRIC COMPANY, INC.	MISCELLANEOUS PARTS	300.95
		BOYER FORD TRUCKS/DBA ALLIANCE	WIRE ASSEMBLY	35.64
			COOLANT, SWITCH ASSEMBLY	42.87
			BRAKE RETURNS	175.00-
			CENTER BEARING, U-JOINTS	116.09
			SWITCH, HARNES	47.94
		NIEBUR TRACTOR & EQUIPMENT, INC.	CARBURETOR	61.55
		TERRYS HARDWARE, INC.	PROPANE	176.65
			TOTAL:	14,562.85
PUBLIC WORKS STR. LIGH	GENERAL	HOMETOWN ACE HARDWARE	TESTER, WIRE BRUSHES	19.95
		DAKOTA ELECTRIC ASSN	ELECTRIC	3,024.53
			TOTAL:	3,044.48
PARKS & RECREATION	GENERAL	HOMETOWN ACE HARDWARE	EAB SUPPLIES	38.67
		HASTINGS SCHOOL DISTRICT #200	AUG TILDEN CENTER COST SHA	2,500.00

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DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		RAINBOW TREE CO.	TAPE FOR TREE	48.05
			TOTAL:	<u>48.05</u>
PARKS & RECREATION	PARKS	CINTAS CORPORATION NO 2	JMF FIRST AID SUPPLIES	144.62
		INNOVATIVE OFFICE SOLUTIONS, LLC	WIRE SORTER	8.86
		HOMETOWN ACE HARDWARE	BEE KILLER	22.46
			DRUM REPAIR AT LEVEE	23.37
		INDEPENDENT BLACK DIRT & SOD COMPANY I	BLACK DIRT	350.00
		ANNA RUDER	RUDER VOLLEYBALL REF	88.00
		THE JOURNAL	PARKS AERATION ADS	298.50
		MICHAEL A. PATRICK	PATRICK SOFTBALL UMPIRE	178.00
		THIERRY AUGÉ	AUGÉ - SOFTBALL UMPIRE	168.00
		GERLACH, ANNA	GERLACH VOLLEYBALL REF	72.00
		DANIEL JAMES PETERS	PETERS SOFTBALL UMPIRE	72.00
		MCKENZIE LANGENFELD	LANGENFELD VOLLEYBALL REF	88.00
		GERLACH OUTDOOR POWER EQUIP	IGNITION SWITCH FOR FERRIS	33.80
		MTI DISTRIBUTING COMPANY	FILTERS FOR 5910	249.49
		TERRYS HARDWARE, INC.	BATTERIES	17.98
			CHANNEL LOCK	59.97
			BEE KILLER	39.60
			IRRIGATION REPAIR	11.97
			SUPPLIES FOR LEVEE BATHROO	33.45
			SHOP SUPPLIES	37.54
			PVC CAP FOR DRUM	9.99
			TOTAL:	<u>2,007.60</u>
PARKS & RECREATION	AQUATIC CENTER	INNOVATIVE OFFICE SOLUTIONS, LLC	LOGO TUMBLERS	293.49
			OFFICE SUPPLIES / GLOVES	28.53
			OFFICE SUPPLIES / GLOVES	102.15
		HORIZON COMMERCIAL POOL SUPPLY	CHEMICAL	3,511.90
		FOX'S FLOWRITE GUTTERS	BOX GUTTERS FOR POOL	934.00
		SYSCO, MINNESOTA	FOOD FOR CONCESSIONS	1,818.75
			FOOD FOR CONCESSIONS	103.38
			TOTAL:	<u>6,792.20</u>
FIRE	FIRE & AMBULANCE	IMAGE TREND, INC.	MONTHLY FEE	675.00
			PHASE 2 HOSTING FEE	289.83
		DAKOTA 911	DCC FEE / 2023 SEPTEMBER	14,839.67
		POMP'S TIRE SERVICE, INC.	REPAIR ENGINE 4	297.74
		ALEX AIR APPARATUS 2	4-GAS CALIBRATION GAS	289.00
		ASPEN MILLS	UNIFORMS	796.34
			UNIFORMS	190.28
		MACQUEEN EQUIPMENT, INC.	SMALL FACEPIECE	477.86
		MN FIRE SERVICE CERT.BRD	RETEST FEE - KUSANT	25.00
		ZEP MANUFACTURING CO.	CLEANING SUPPLIES	846.44
			TOTAL:	<u>18,727.16</u>
AMBULANCE	FIRE & AMBULANCE	DANIELS HEALTH	HAZARDOUS WASTE	197.28
		BOUND TREE MEDICAL LLC	MEDICAL SUPPLIES	90.26
			MEDICAL SUPPLIES	34.50
		BOYER FORD TRUCKS/DBA ALLIANCE	GASKET-AIR CLEANER FOR MED	221.37
		NORTHERN SAFETY TECHNOLOGY	STROBE LAMP - MEDIC 3	127.13
		LINDE GAS & EQUIPMENT INC.	OXYGEN	192.52
			OXYGEN	163.91
			TOTAL:	<u>1,026.97</u>

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DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
PUBLIC WORKS	2023 IMPROVEMENTS	U.S. BANK	2023A FISCAL AGENT FEE	850.00
		FOCUS ENGINEERING, INC.	2023-1 NEIGHBRHD INFRASTR	VIII-01 1,225.00
		BARR ENGINEERING CO.	2023 IMPROVEMENTS PROJECT	<u>1,225.00</u>
			TOTAL:	4,025.00
PUBLIC WORKS	WATER	HAWKINS INC	CHEMICALS	3,352.62
		INNOVATIVE OFFICE SOLUTIONS, LLC	ENVELOPES, TAPE	33.88
			UPS	89.86
		FOCUS ENGINEERING, INC.	WATER FUND	780.00
			WATER FUND	3,270.00
		CORE & MAIN LP	METER REPLACEMENT PROG	25,431.84
			METER REPLACEMENT PROG	18,165.60
			METER REPLACE PROG	9,520.00
		GOPHER STATE ONE-CALL INC	JULY 2023-FTP BILLABLE TIC	437.40
		TERRYS HARDWARE, INC.	KEYS	3.93
			VACUUM BREAKER, TAPE, HOSE B	27.11
			PLIERS	17.99
		TOTAL TOOL SUPPLY	23 CRANE/HOIST INSP/LIFT R	<u>1,050.00</u>
			TOTAL:	62,180.23
PUBLIC WORKS	WASTEWATER	CRESCENT ELECTRIC SUPPLY COMPANY	WESTWOOD GENERATOR PROJECT	636.61
			WESTWOOD GENERATOR	36.54
		FOCUS ENGINEERING, INC.	WASTEWATER FUND	1,920.00
		HOMETOWN ACE HARDWARE	ADAPTER, UNION, PVC, WASP KIL	53.57
			PVC, UNION, ADAPTR, DUSTPAN, B	56.82
		VAN METER INC	WESTWOOD GENERATOR	57.99
		MCS	WASTEWATER SERVICES DEF RE	<u>138,272.63</u>
			TOTAL:	141,034.16
PUBLIC WORKS	STORM WATER UTILIT	FOCUS ENGINEERING, INC.	STORM WATER FUND	3,120.00
		BARR ENGINEERING CO.	2023 IMPROVEMENTS PROJECT	<u>3,894.50</u>
			TOTAL:	7,014.50
PARKS & RECREATION	ARENA	HUEBSCH LAUNDRY CO.	ENTRY RUG SERVICE	53.78
		ISG	ARENA PLANNING-FACILITY AS	4,935.00
		BECKER ARENA PRODUCTS, INC	REPLACEMENT RINK GLASS	<u>3,081.96</u>
			TOTAL:	8,070.74
PUBLIC WORKS	HYDRO ELECTRIC	AVANT ENERGY, INC.	REC MANAGEMENT FEES	515.76
		L & S ELECTRIC	MOTOR REPAIR JOB	2,856.39
		QUALITY FLOW SYSTEMS, INC.	PUMP PARTS	337.00
		TERRYS HARDWARE, INC.	CABLES, TURNBUCKLE, TOWELS	<u>100.96</u>
			TOTAL:	3,810.11
NON-DEPARTMENTAL	ESCROW - DEV/ENG/T	FOCUS ENGINEERING, INC.	SOUTH OAKS 4TH ADDITION	270.00
			HERITAGE RIDGE 3RD ADDN DE	120.00
			HERITAGE RIDGE 4TH ADDN DE	<u>120.00</u>
			TOTAL:	510.00

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
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===== FUND TOTALS =====
101 GENERAL 115,641.54
200 PARKS 2,007.60
201 AQUATIC CENTER 6,792.20
213 FIRE & AMBULANCE 19,754.13
483 2023 IMPROVEMENTS 4,025.00
600 WATER 62,180.23
601 WASTEWATER 141,034.16
603 STORM WATER UTILITY 7,014.50
615 ARENA 8,070.74
620 HYDRO ELECTRIC 3,810.11
807 ESCROW - DEV/ENG/TIF-HRA 510.00
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GRAND TOTAL: 370,840.21
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DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT	
NON-DEPARTMENTAL	GENERAL	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	222.94	
			AUG 2023 VISION PREMIUM	<u>118.01</u>	
			TOTAL:	241.24	
ADMINISTRATION	GENERAL	INNOVATIVE OFFICE SOLUTIONS, LLC	OFFICE SUPPLIES - CITY HAL	44.67	
			OFFICE SUPPLIES - CITY HAL	124.66	
			OFFICE SUPPLIES - CITY HAL	28.74	
			CRAIG RAPP LLC	STRATEGIC PLANNING	4,875.00
			TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	447.98
			GRAPHIC DESIGN	LAWRENCE - BUSINESS CARDS	<u>82.00</u>
			TOTAL:	5,603.05	
FINANCE	GENERAL	NORTHLAND SECURITIES, INC.	LONG-TERM FINANCIAL PLAN	<u>2,232.50</u>	
			TOTAL:	2,232.50	
LEGAL	GENERAL	CAMPBELL KNUTSON, P.A. LEVANDER, GILLEN & MILLER, P.A.	JULY LEGAL FEES	11,996.48	
			RETAINER/SERVICES THRU 7/2	2,258.50	
			RETAINER/SERVICES THRU 7/2	122.25	
			RETAINER/SERVICES THRU 7/2	356.50	
			RETAINER/SERVICES THRU 7/2	<u>573.50</u>	
TOTAL:	15,307.23				
FACILITY MANAGEMENT	GENERAL	M. JUDGE ELECTRIC LLC ECOLAB PEST ELIMINATION DIVISION MN DEPT LABOR & INDUSTRY MOSENG LOCKSMITHING STATE SUPPLY CO TERRYS HARDWARE, INC.	P.D. LIGHTING REPLACED	1,015.00	
			P.D. PEST	97.50	
			F.D. PEST	82.12	
			F.D. PRESSURE VESSEL CER	10.00	
			C.S. FRONT DOOR LOCK KEYPA	632.78	
			C.H. BOILER PARTS	77.83	
			BACK TO BACK TAPE, HEAT GU	<u>153.49</u>	
TOTAL:	2,068.72				
I.T.	GENERAL	OFFICE OF MN.IT SERVICES	WAN/USAGE JUL-23	<u>529.62</u>	
			TOTAL:	529.62	
POLICE	GENERAL	TOSHIBA AMERICA BUSINESS SOLUT SOUTH EAST TOWING OF HASTINGS INC	COPIER LEASE - CITYWIDE	297.46	
			CASE #23001215	465.00	
			AUGUST 2023 LOT RENT	<u>195.00</u>	
TOTAL:	957.46				
BUILDING & INSPECTIONS	GENERAL	DUNN SOLUTIONS LLC	BUILDING DEPT CONSULTATION	85.00	
			BUILDING DEPT CONSULTATION	212.50	
			BUILDING DEPT CONSULTATION	127.50	
			BUILDING DEPT CONSULTATION	211.19	
			BUILDING DEPT CONSULTATION	255.00	
			BUILDING DEPT CONSULTATION	85.00	
			BUILDING DEPT CONSULTATION	42.50	
			BUILDING DEPT CONSULTATION	3,981.25	
			BUILDING DEPT CONSULTATION	148.75	
			BUILDING DEPT CONSULTATION	318.75	
			BUILDING DEPT CONSULTATION	2,769.42	
			BUILDING DEPT CONSULTATION	403.75	
			BUILDING DEPT CONSULTATION	170.00	
			BUILDING DEPT CONSULTATION	42.50	
			BUILDING DEPT CONSULTATION	85.00	
BUILDING DEPT CONSULTATION	42.50				
BUILDING DEPT CONSULTATION	85.00				

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DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			BUILDING DEPT CONSULTATION	85.00
			BUILDING DEPT CONSULTATION	85.00
			BUILDING DEPT CONSULTATION	85.00
			BUILDING DEPT CONSULTATION	85.00
			BUILDING DEPT CONSULTATION	63.75
			BUILDING DEPT CONSULTATION	127.50
			BUILDING DEPT CONSULTATION	42.50
			BUILDING DEPT CONSULTATION	127.50
			BUILDING DEPT CONSULTATION	42.50
		EDMISON, TANYA	EDMISON BOOT REIMBURSEMENT	244.98
			TOTAL:	10,011.84
SAFETY	GENERAL	G.L. BERG ENTERTAINMENT	DEPOSIT-STAFF COMEDY SHOW	150.00
		MIKE BRODY COMEDY LLC	COMEDY SHOW-STAFF LUNCH 9/	600.00
			TOTAL:	750.00
PUBLIC WORKS	GENERAL	TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	39.23
			TOTAL:	39.23
PUBLIC WORKS STREETS	GENERAL	RCM SPECIALTIES, INC.	EMULSION	758.08
		TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	39.23
			TOTAL:	797.31
PUBLIC WORKS STR. LIGH	GENERAL	CITY OF ST PAUL	REPLACE COUNT DOWN TIMERS	840.32
			LABOR & EQUIPMENT - SIGNAL	316.00
			TOTAL:	1,156.32
NON-DEPARTMENTAL	PARKS	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	12.20
			TOTAL:	12.20
PARKS & RECREATION	PARKS	TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	165.10
			TOTAL:	165.10
NON-DEPARTMENTAL	CABLE TV	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	3.12
			TOTAL:	3.12
HERITAGE PRESERVATION	HERITAGE PRESERVAT	DAKOTA COUNTY HISTORICAL SOCIETY	SUSTAINING MEMBERSHIP	100.00
			TOTAL:	100.00
NON-DEPARTMENTAL	FIRE & AMBULANCE	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	64.40
			TOTAL:	64.40
FIRE	FIRE & AMBULANCE	PHIL NELSON	P NELSON BOOT REIMBURSEMEN	250.00
		TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	174.44
		MICHAEL WAGNER	WAGNER BOOT REIMBURSEMENT	210.73
		EMERGENCY APPARATUS MAINT	REPAIR TO ENGINE 2	2,169.06
			REPAIR TO ENGINE 4	1,972.84
			REPAIR TO LADDER 1	2,036.75
			REPAIR TO TENDER 1	1,225.29
			REPAIR TO LADDER 1	478.60
		MACQUEEN EQUIPMENT, INC.	LOCKER	2,489.60
		MN FIRE SERVICE CERT.BRD	OFFICER II CERT EXAM	273.00
			TOTAL:	11,280.31
AMBULANCE	FIRE & AMBULANCE	DAKOTA COUNTY FINANCIAL SERVICES	2023 EMS TRANSPORT FEE	2,212.00
		ALLINA HOSPITALS & CLINICS	3RD QTR MED DIRECTOR&EDUCA	3,340.50

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DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		EXPERT BILLING, LLC	JUNE REVENUE	1,532.95
		DIGITECH COMPUTER LLC	JULY 2023 BILLING	<u>5,431.01</u>
			TOTAL:	12,397.42
PARKS & RECREATION	PARKS CAPITAL PROJ	WSB & ASSOCIATES INC	HWY 55 TRAIL PROJECT	<u>10,054.50</u>
			TOTAL:	10,054.50
ECONOMIC DEVELOPMENT	HEDRA	LEVANDER, GILLEN & MILLER, P.A.	RETAINER/SERVICES THRU 7/2	382.50
			RETAINER/SERVICES THRU 7/2	<u>431.15</u>
			TOTAL:	813.65
INVALID DEPARTMENT	TIF 9 BLOCK 28	LEVANDER, GILLEN & MILLER, P.A.	RETAINER/SERVICES THRU 7/2	60.00
			RETAINER/SERVICES THRU 7/2	<u>24.00</u>
			TOTAL:	84.00
NON-DEPARTMENTAL	WATER	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	<u>5.70</u>
			TOTAL:	5.70
PUBLIC WORKS	WATER	WATER CONSERVATION SERVICES, INC.	LEAK LOCATES + MILEAGE	757.58
		HOMETOWN ACE HARDWARE	BAKING SODA, LIME RUST REM	37.76
			ELBOWS, VINEGAR, BAKING SO	28.76
			CLOROX WIPES	13.66
			PIPE, UNION ADAPTER CREDIT	27.51-
		CORE & MAIN LP	METER REPLACEMENT PROGRAM	16,822.76
		ROBERT CLARK	CLARK BOOTS REIMBURSEMENT	169.99
			CLARK - PANTS REIMBURSEMEN	270.00
		LEVANDER, GILLEN & MILLER, P.A.	RETAINER/SERVICES THRU 7/2	317.75
		TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	39.23
		CITY OF BLOOMINGTON	LAB TESTING SERVICES	476.00
		DOWNTOWN TIRE & AUTO	2008 CHEV SILVERADO REPAIR	1,326.49
		GRAPHIC DESIGN	TIL BILL STATEMENTS/POSTAG	297.00
			TIL BILL STATEMENTS/POSTAG	1,508.83
		NINE EAGLES PROMOTIONS	KIEFFER CLOTHING	<u>50.00</u>
			TOTAL:	22,088.30
NON-DEPARTMENTAL	WASTEWATER	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	<u>5.56</u>
			TOTAL:	5.56
PUBLIC WORKS	WASTEWATER	CRESCENT ELECTRIC SUPPLY COMPANY	WESTWOOD GENERATOR PROJECT	8.70
		TOSHIBA AMERICA BUSINESS SOLUT	COPIER LEASE - CITYWIDE	39.23
		GRAPHIC DESIGN	TIL BILL STATEMENTS/POSTAG	297.00
		QUALITY FLOW SYSTEMS, INC.	LIFT STATION PUMPS-CAPITAL	22,777.00
			LIFT STATION SERVICE CHECK	<u>1,600.00</u>
			TOTAL:	24,721.93
NON-DEPARTMENTAL	STORM WATER UTILIT	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	<u>5.56</u>
			TOTAL:	5.56
PUBLIC WORKS	STORM WATER UTILIT	GRAPHIC DESIGN	TIL BILL STATEMENTS/POSTAG	<u>297.00</u>
			TOTAL:	297.00
NON-DEPARTMENTAL	ARENA	VISION SERVICE PLAN INSURANCE CO.	AUG 2023 VISION PREMIUM	<u>13.04</u>
			TOTAL:	13.04
PARKS & RECREATION	ARENA	BECKER ARENA PRODUCTS, INC	NETTING FOR GOAL FRAMES	<u>920.18</u>
			TOTAL:	920.18

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
NON-DEPARTMENTAL	ESCROW - DEV/ENG/T	LEVANDER, GILLEN & MILLER, P.A.	RETAINER/SERVICES THRU 7/2	237.50
			RETAINER/SERVICES THRU 7/2	228.00
			RETAINER/SERVICES THRU 7/2	130.00
			TOTAL:	591.00

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===== FUND TOTALS =====

101	GENERAL	39,694.52
200	PARKS	177.30
205	CABLE TV	3.12
210	HERITAGE PRESERVATION	100.00
213	FIRE & AMBULANCE	23,742.13
401	PARKS CAPITAL PROJECTS	10,054.50
407	HEDRA	813.65
413	TIF 9 BLOCK 28	84.00
600	WATER	22,094.00
601	WASTEWATER	24,727.49
603	STORM WATER UTILITY	302.56
615	ARENA	933.22
807	ESCROW - DEV/ENG/TIF-HRA	591.00

	GRAND TOTAL:	123,317.49



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Paige Marshall Bigler, Recreation Program Specialist
Date: August 21, 2023
Item: Special Event Designation – Date Addition

Council Action Requested:

Designate October 8, 2023 as an additional Historic Hastings Car Show date.

Background Information:

The Downtown Business Association (DBA) planned the 2023 Car Show events. The event dates included the 3rd Sunday of each month: May 21, June 18, July 16, August 20 and September 17 from 11:00 a.m. to 4:00 p.m. The DBA is asking for an additional date to be added: Sunday, October 8, 2023.

Conditions

- Street closure of the area barricaded in red (reference map) from 9:00 a.m. – 5:00 p.m. for event. Sibley St. should stay open until 9:30 a.m. to allow for public parking and Legion access. This would be consistent with 2021 & 2022 Car Shows.
- Event Organizers will post ‘No Parking’ signs 24-hrs. prior to the event. Hastings Police will tag/tow any cars in restricted area starting at 9:00 a.m. This is consistent with other special events.
- Area to block-off include: 2nd Street from Tyler Street to the cross street near The Lock and Dam Eatery. Ramsey Street from Oliver’s Grove Park to the Levee Park Entrance. Sibley Street from Level Up Games area to the Alley by the previous ‘Onion Grille’ restaurant.
- Barricade at 3rd Street and blocking the East Frontage Road. Barricade can open as the show ends for exiting traffic.
- Volunteers will direct cars to appropriate open parking spaces on 2nd, filling from end to end then filling the center of 2nd between Sibley and Tyler. When full, volunteers will place street barricades, blocking the entrance.
- Volunteers will direct cars North on Tyler St. and shown other public parking areas nearby.
- Hastings Police Department will continue to provide Reservists and Police Officers for the Car Show events.
- The Hastings Parks Department will provide 5 picnic tables under the HWY 61 bridge south of 2nd St. next to the artwork area and 3 picnic tables on the Levee Park sidewalk area near the public restrooms; allowing for proper handicap access.

- Event Organizers will coordinate for a food truck and tent under the bridge (where picnic tables are placed) and on 2nd street under the bridge. The truck window will face west so guests line up on the sidewalk and not the street.
- DBA to provide additional trash and recycling receptacles for attendees.
- DBA to provide portable bathrooms for attendees.
- Levee Park restrooms will be cleaned and stocked Sunday mornings by Parks Department Staff. Restrooms are on an automated timer unlocked 7:00 a.m. – 10:00 p.m. daily, unless an issue arises.
- No vehicles newer than 1985 allowed in designed event area.
- No animals (unless certified service animals) allowed in designed event area.

Financial Impact:

The DBA has been independent in the organization of these events, there are some City resources used including Police Reservists and a full-time Police Officer to assist.

Advisory Commission Discussion:

n/a

Council Committee Discussion:

n/a

Attachments:

- 2023 Car Show Packet



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Paige Marshall Bigler, Recreation Program Specialist
Date: April 3, 2023
Item: Special Event Designation

Council Action Requested:

Designate the Historic Hastings Car Shows as Special Events with the following conditions recommended by City staff.

Background Information:

The Downtown Business Association (DBA) is planning for the 2023 Car Show events. The event dates will be the 3rd Sunday of each month: May 21, June 18, July 16, August 20 and September 17 from 11:00 a.m. to 4:00 p.m. The event has the same footprint as last year.

Conditions

- Street closure of the area barricaded in red (reference map) from 9:00 a.m. – 5:00 p.m. for event. Sibley St. should stay open until 9:30 a.m. to allow for public parking and Legion access. This would be consistent with 2021 & 2022 Car Shows.
- Event Organizers will post ‘No Parking’ signs 24-hrs. prior to the event. Hastings Police will tag/tow any cars in restricted area starting at 9:00 a.m. This is consistent with other special events.
- Area to block-off include: 2nd Street from Tyler Street to the cross street near The Lock and Dam Eatery. Ramsey Street from Oliver’s Grove Park to the Levee Park Entrance. Sibley Street from Level Up Games area to the Alley by the previous ‘Onion Grille’ restaurant.
- Barricade at 3rd Street and blocking the East Frontage Road. Barricade can open as the show ends for exiting traffic.
- Volunteers will direct cars to appropriate open parking spaces on 2nd, filling from end to end then filling the center of 2nd between Sibley and Tyler. When full, volunteers will place street barricades, blocking the entrance.
- Volunteers will direct cars North on Tyler St. and shown other public parking areas nearby.
- Hastings Police Department will continue to provide Reservists and Police Officers for the Car Show events.
- The Hastings Parks Department will provide 5 picnic tables under the HWY 61 bridge south of 2nd St. next to the artwork area and 3 picnic tables on the Levee Park sidewalk area near the public restrooms; allowing for proper handicap access.

- Event Organizers will coordinate for a food truck and tent under the bridge (where picnic tables are placed) and on 2nd street under the bridge. The truck window will face west so guests line up on the sidewalk and not the street.
- DBA to provide additional trash and recycling receptacles for attendees.
- DBA to provide portable bathrooms for attendees.
- Levee Park restrooms will be cleaned and stocked Sunday mornings by Parks Department Staff. Restrooms are on an automated timer unlocked 7:00 a.m. – 10:00 p.m. daily, unless an issue arises.
- No extra dates be added to this request; only dates specified.
- No vehicles newer than 1985 allowed in designed event area.
- No animals (unless certified service animals) allowed in designed event area.

Financial Impact:

The DBA has been independent in the organization of these events, there are some City resources used including Police Reservists and a full-time Police Officer to assist.

Advisory Commission Discussion:

n/a

Council Committee Discussion:

n/a

Attachments:

- 2023 Car Show Special Event Application
- 2023 Car Show Map & Route



SPECIAL EVENT PERMIT APPLICATION

ADHERE TO COVID-19 GUIDELINES. The User represents & confirms that all requirements of the City and State of Minnesota related to COVID-19, including, but not limited to, Governor’s Executive Order & State Agency Guidance, have been included in the User’s COVID-19 Preparedness Plan which will be implemented and enforced while using any Facility in accordance this Agreement. User is responsible for monitoring & updating their COVID-19 Preparedness Plan should the requirements of the City or State of Minnesota be altered, updated, or otherwise changed.

General Event Information			
Event Name:			
Name of Event Coordinator:		Home Phone: ()	
		Work Phone: ()	
Name of Organization /Business Hosting Event:		Cell Phone: (651)	
		E-mail:	
Mailing Address:		Website:	
On Site Contact Name:		On Site Contact Cell Phone: (651)	
Type of Event (mark all that apply): Downtown Event Race/Run/Walk Concert/Performance Fundraiser			
Other:			
Date(s) Requested:			
Date	Day of Week	Time	
		am/pm to am/pm	
		am/pm to am/pm	
		am/pm to am/pm	
Is this event: <input type="checkbox"/> Open to the public <input type="checkbox"/> Private		Will this be an annual event? Yes <input type="checkbox"/> No	
Has this event been held in another City? Yes No			
If yes, when was it held and where? _____			
Will an admission fee be charged? Yes No		Will donations be accepted? Yes No	
What will proceeds from the event be used for?			
Anticipated Attendance: Total Per Day			
Will there be a tent(s) at the event? Yes No		If yes, how many and how big?	

Event Location Information
Location of the event (including the starting line, finish line and staging/disbanding areas):
List of any City parks/facilities to be used for the event:
Number of vehicles expected at the event:
Describe where participants will park:

If the event will take place on private property, has approval been obtained from the property owner(s)?
 Yes No

Please include a site plan for the event location that show the location of the starting line, finishing line, staging areas, tents, vendors, parking areas, sound amplification equipment and any other areas that will be setup as part of the event.

Recycling and Trash are required for collection at all events with waste. Recycling and Trash must follow the Best Management Practices including: paired and labeled containers. Questions? Please contact our City Recycling Coordinator 651-480-6182

Will your event generate waste? If yes, we recommend contacting a Hauler for bins and waste pick-up.
 Yes No from food trucks; they are required to haul away themselves

Event Route Information

Does the event propose to require the use of any public right of way (crossing or traveling within)? Yes No

List all public right of way that will be used during the event:

- City Streets _____
- Trails/Sidewalks _____
- County Roads _____
- State Road _____
- Other Right of Way _____

Have you received approval for the use of any County or State right-of-way? Yes No Not applicable

Does the route require the closing or partial closing of any streets, intersections or crossings? Yes No
 If yes, please describe: _____

(The City of Hastings reserves the right to require street closings)

Please include a detailed map showing the proposed route. The route map must show what roadways, trails and sidewalks will be used and the direction the participants will travel. All street names must be clearly labeled.

Event Safety Information

Number of volunteers assisting with the event:

Do you have a contingency plan if volunteers don't show up? Yes No
 If yes, please summarize: _____

Is the promoter aware of any problems that may arise during the event? Yes No
 If yes, please summarize: _____

Have arrangements been made for emergency medical services? Yes No
 If yes, please summarize: _____

Will alcohol be served or sold at the event? No Yes (a temporary beer or liquor license is required)

Will there be a raffle or other regulated gambling activity at the event? No Yes (a temporary gambling permit is required)

Will the event include the sale of any products or services? No Yes (please provide a list of your approved event vendors):

Will the event include the sale of any food or beverages? No Yes (health department permits are required, please provide a list of your approved food vendors):

Event Signage and Sound Information

Please include a route map detailing where all DIRECTIONAL signage will be placed for the event.

Please include a map detailing where all signs ADVERTISING the event will be placed.

Will any sound amplification equipment be used at the event? Yes No

If yes, please describe where in the event area the equipment will be used and what time the equipment will be used:

Insurance Information

Insurance coverage shall be maintained for the duration of the event with a minimum \$1,000,000 combined single limit and a minimum \$2,000,000 aggregate limit. If food or non-alcoholic beverages are sold or provided at the event the insurance policy shall also include an endorsement for product liability in an amount not less than \$1,000,000. Proof of insurance coverage must be provided at least 5 days prior to the event.

I have read and agree to all ordinances and rules associated with this special event permit. I certify that the answers are true and correct to the best of my knowledge.



Signature

Date

Please return completed form to Paige Marschall-Bigler at pmarschall@hastingsmn.gov or mail in to Parks Department 920 10th St W, Hastings MN 55033. Call 651-480-6182 with any questions.

OFFICE USE ONLY

Date application submitted: _____

Date application approved by CC: _____

Required resources:

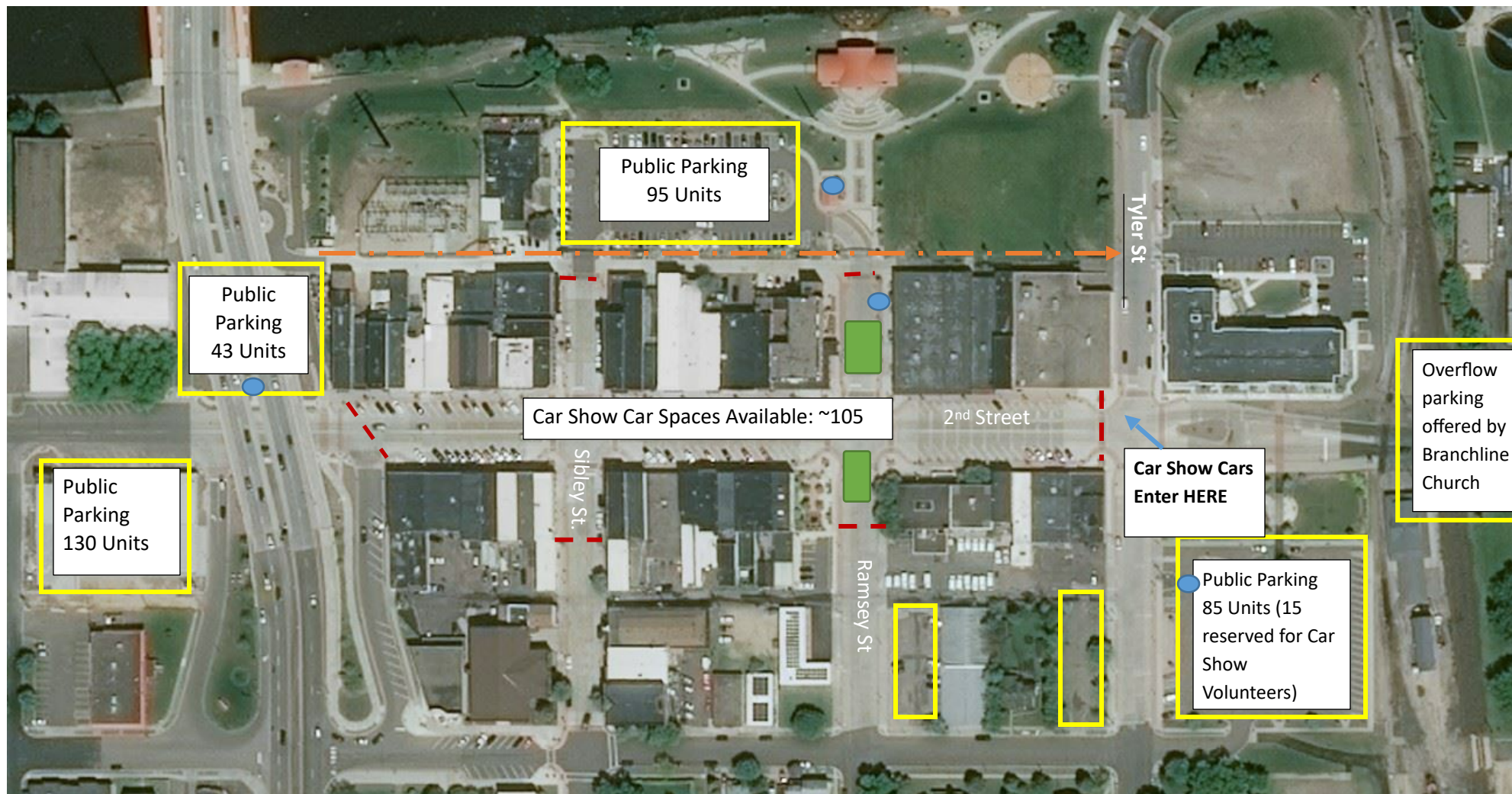
- Police Reservists: _____

- Equipment: _____

- City staff: _____

Insurance information received: _____

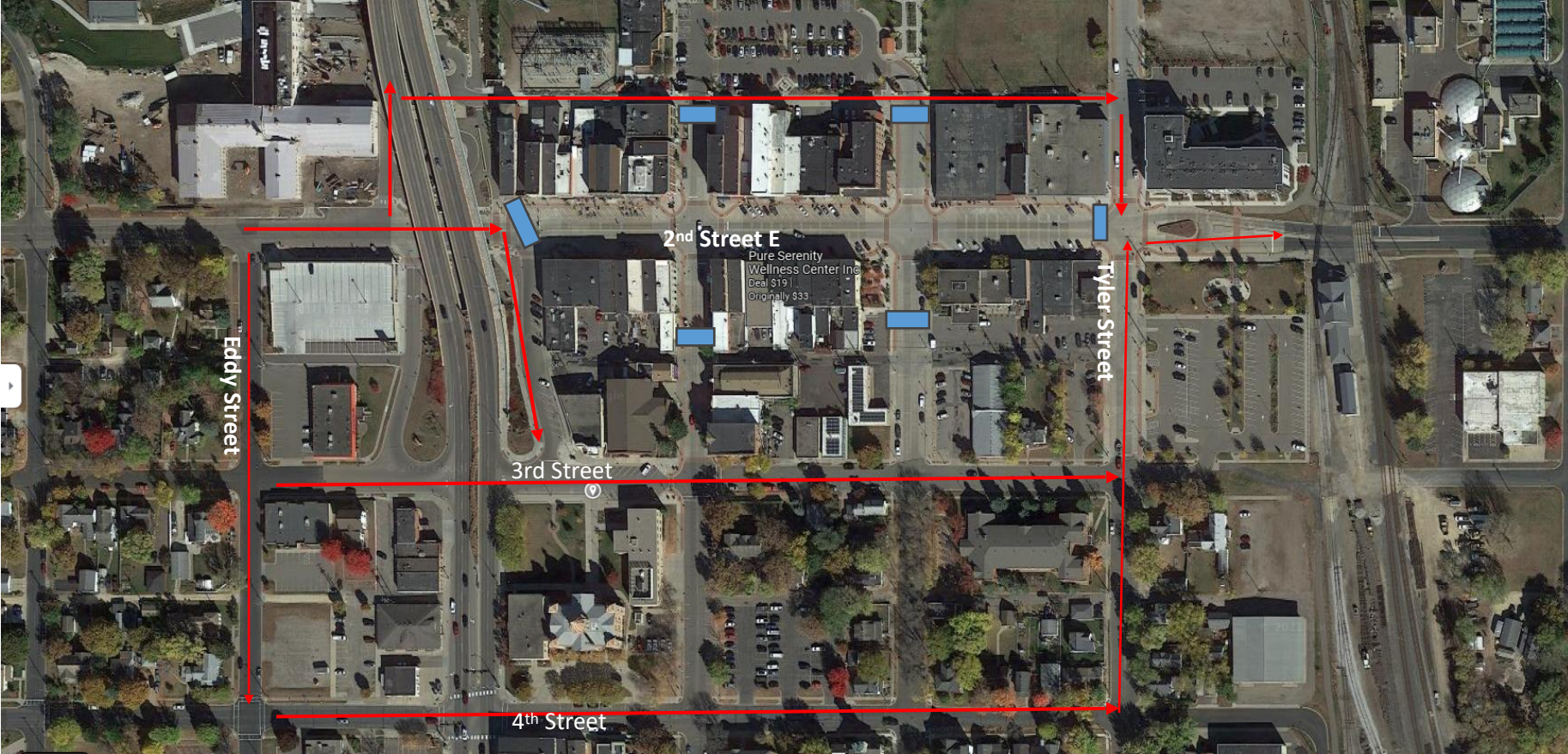
Licenses/permits obtained: _____



- Street Barricades**
- Public Parking**
All Public Parking lots have accessible parking spaces reserved.
- Food Trucks**
- Restrooms**
- One way traffic**

If you would like to display your car at the Historic Hastings Car Show, please follow the guidelines below:

- Spaces are available on a first come, first serve basis.
- Please enter the event area on Tyler & 2nd
- Gates open at 10:00 a.m.
- Classic cars from 1985 and older.



Street Barricades



Route options

***City Council Memorandum***

To: Mayor Fasbender & City Council Members

From: David D. Wilske, Chief of Police

Date: August 21st, 2023

Item: Public Safety Advisory Commissioner Appointment

Council Action Requested:

Council is asked to appoint Mary Nehring to complete a partial term on the Public Safety Advisory Commission.

Background Information:

Mrs. Nehring participated in an oral interview before a panel consisting of City Councilmember Fox, PSAC Chair Dolores Pemble, City Administrator Dan Wietecha, and Police Chief Dave Wilske. At the conclusion of the interview, the panel unanimously recommended Nehring. Mary will begin her term commencing 9/21/23 to 12/31/2023 and will complete the term for Victoria Baukel, who stepped down from the Commission after relocating to another city.

Financial Impact:

None

Advisory Commission Discussion:

Public Safety Advisory Commission Chair, Pemble.

Council Committee Discussion:

N/A

Attachments:

N/A



City Council Memorandum

To: Mayor Fasbender & City Council Members
From: Chris Eitemiller, Finance Manager and Ashley Bertrand, Assistant Finance Manager
Date: August 21, 2023
Item: 2023 2nd Quarter Financial Report

Council Action Requested: Review and approve the attached second quarter financial report.

Background Information: The second quarter financial report is a quarterly update of 2023 activity through June 30, 2023. Consistent with past practice, some numbers in the report are adjusted to take into consideration the effects of year-end accruals and year-to-year allocation differences.

Detail of the City's investments holdings is provided in Appendix A.

Financial Impact: N/A

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments:

- 2023 2nd Quarter Financials
- Appendix A – 2023 Investment Holdings as of June 30, 2023



2023 2nd Quarter Financial Update

Governmental Funds

General Fund

General Fund Revenue Summary:

- The largest source of revenue is property tax levy. The City received an advance payment in June, while the second half will be received in July.
- Our investments have begun performing better in the second quarter this year, and represents the best performance since prior to the pandemic.
- Public Works-Engineering charges a fee for engineering work related to the annual street project in the fall. Because that has not yet been charged, Engineering shows at just 2% of budgeted revenue.
- Public Works-Streets has state aid payments for summer street maintenance and construction budgeted but not yet charged.
- Building Inspection fees continue to perform strongly, and are on track to meet an increased budget for 2023.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
101-GENERAL					
<u>REVENUE SUMMARY</u>					
NON-DEPARTMENTAL	4,084,089	5,574,709	1,490,620	12,365,478	45%
COUNCIL & MAYOR	-	-	-	-	0%
CITY CLERK	64,187	67,152	2,964	106,500	63%
FINANCE	-	-	-	-	0%
FACILITY MANAGEMENT	8,920	9,000	80	18,380	49%
PLANNING	13,258	7,033	(6,225)	17,000	41%
I.T.	302	2,108	1,806	-	0%
POLICE	152,723	198,925	46,202	577,731	34%
BUILDING & INSPECTIONS	426,261	361,625	(64,636)	681,200	53%
SAFETY	-	19,110	19,110	10,000	191%
PUBLIC WORKS-ENGINEERING	13,407	10,791	(2,616)	511,000	2%
PUBLIC WORKS-STREETS	438,455	165,216	(273,239)	611,000	27%
PUBLIC WORKS-STR. LIGHTS	-	(478)	(478)	1,000	-48%
PARKS & RECREATION	20,682	7,668	(13,014)	75,500	10%
MISCELLANEOUS	-	-	-	-	0%
TRANSFERS	236,190	241,490	5,300	472,380	51%
TOTAL REVENUES	5,458,473	6,664,346	1,205,873	15,447,169	43%

2023 2nd Quarter Financial Update

General Fund Expense Summary:

VIII-04

- None of the General Fund Departments have any budget concerns at this point in the year.
- Variances from the typical mid-year spending pattern are largely due to capital or supplies purchases that are expected to be close to budget by year-end.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
<u>EXPENDITURE SUMMARY</u>					
NON-DEPARTMENTAL	-	76,574	76,574	-	0%
COUNCIL & MAYOR	36,744	31,491	(5,253)	119,186	26%
ADMINISTRATION	139,718	209,320	69,602	405,577	52%
CITY CLERK	227,917	259,701	31,784	585,370	44%
FINANCE	310,791	342,470	31,679	1,064,490	32%
LEGAL	111,240	81,401	(29,838)	254,500	32%
FACILITY MANAGEMENT	202,361	217,021	14,660	515,560	42%
PLANNING	172,261	175,193	2,932	322,555	54%
I.T.	342,932	459,719	116,787	891,020	52%
POLICE	2,968,602	3,221,482	252,881	6,400,774	50%
BUILDING & INSPECTIONS	333,674	363,514	29,840	1,066,717	34%
SAFETY	3,161	477	(2,684)	2,700	18%
PUBLIC WORKS-ENGINEERING	218,946	243,641	24,695	592,307	41%
PUBLIC WORKS-STREETS	733,580	922,636	189,055	1,531,147	60%
PUBLIC WORKS-STR. LIGHTS	89,467	92,295	2,828	224,300	41%
PUBLIC WORKS-SIDEWALKS	-	-	-	25,500	0%
PARKS & RECREATION	79,131	40,602	(38,529)	149,489	27%
MISCELLANEOUS	396,523	502,732	106,209	2,007,407	25%
TOTAL EXPENDITURES	6,367,048	7,240,268	873,220	16,158,599	45%
REVENUES OVER/(UNDER)EXPEDITURES	(908,575)	(575,921)	332,653	(711,430)	

Parks - Fund 200

- Income is tracking as expected with investment earnings better than recent years.
- Joint Facility revenue is lower than anticipated; we are awaiting the second quarter payment.
- Expenditures look on target at 37% of budget spent at the mid-point during the year.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
200-PARKS					
<u>REVENUE SUMMARY</u>					
LEVY/TAX	552,527	518,139	(34,388)	1,725,709	30%
RENTAL INCOME	6,847	7,015	168	8,000	88%
PROGRAM INCOME	16,910	13,775	(3,136)	63,150	22%
INVESTMENT INCOME	(40,541)	25,140	65,681	1,000	2514%
MISCELLANEOUS	211,968	88,000	(123,968)	321,885	27%
JOINT FACILITY INCOME	14,988	13,171	(1,817)	40,000	33%
DONATIONS	5,965	18,150	12,185	21,700	0%
TOTAL REVENUES	768,665	683,390	(85,275)	2,181,444	31%
<u>EXPENDITURE SUMMARY</u>					
PERSONNEL EXPENSE	549,647	605,380	55,733	1,257,135	48%
SUPPLIES	48,069	52,252	4,183	138,775	38%
OTHER SERVICES & CHARGES	217,736	229,236	11,500	411,910	56%
MISCELLANEOUS	20,021	40,044	20,023	50,155	80%
CAPITAL OUTLAY	11,444	188,146	176,701	1,185,255	16%
TRANSFERS	14,285	14,285	-	28,569	50%
TOTAL EXPENDITURES	861,201	1,129,342	268,140	3,071,799	37%
REVENUES OVER/(UNDER)EXPEDITURES	(92,537)	(445,952)	(353,415)	(890,355)	

Aquatic Center – Fund 201

VIII-04

- Budgeted Capital Outlay, including lifeguard stands and shade structures, remains mostly unspent as of June 30, which is the most significant reason that spending so low at mid-year.
- This fund will expend the bulk of its budget by the end of August.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
201-AQUATIC CENTER					
LEVY/TAX	77,779	84,404	6,625	282,498	30%
SALES INCOME	153,859	156,227	2,368	256,300	61%
INVESTMENT INCOME	(12,452)	7,312	19,765	1,500	487%
MISCELLANEOUS	-	-	-	-	0%
TOTAL REVENUES	219,186	247,943	28,758	540,298	46%
PERSONNEL EXPENSES	93,593	87,544	(6,049)	374,949	23%
SUPPLIES	39,109	37,394	(1,714)	65,700	57%
OTHER SERVICES & CHARGES	43,239	62,282	19,043	109,510	57%
MISCELLANEOUS	310	-	(310)	-	0%
CAPITAL OUTLAY	540	2,418	1,878	71,500	3%
TRANSFERS	4,151	4,151	-	8,302	50%
TOTAL EXPENDITURES	180,941	193,789	12,847	629,961	31%
REVENUES OVER/(UNDER)EXPEDITURES	38,244	54,154	15,910	(89,663)	

Fire & Ambulance – Fund 213

VIII-04

Fire & Ambulance Revenue Summary:

- In early 2023, a new Rural Fire Contract was agreed to. Payments in 2023, will be about \$33,000 higher than budgeted, due to the timing of negotiations.
- None of the \$505,078 in transfers have been made as of June 30. These funds will be transferred from the General Fund to support capital outlay purchases.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
213-FIRE & AMBULANCE					
FIRE/AMBULANCE REVENUE					
TAX/LEVY	425,570	661,327	235,757	2,209,918	30%
RENTAL LICENSES/PERMITS	-	19,016	19,016	30,000	63%
GRANTS	8,698	13,767	5,069	8,000	172%
STATE RELIEF AID	-	-	-	170,000	0%
RURAL FIRE CONTRACT	275,940	292,497	16,557	551,880	53%
CHARGES FOR SERVICES	1,018,780	683,756	(335,024)	2,399,150	28%
TRANSFERS	-	-	-	505,078	0%
INVESTMENT EARNINGS	(13,095)	77	13,171	2,000	4%
MISCELLANEOUS	8,663	74,612	65,948	2,304	3238%
TOTAL REVENUE FIRE & AMBULANCE	1,724,557	1,745,051	20,494	5,878,330	30%

Fire & Ambulance Expense Summary:

- Fire expense is more in 2023, due primarily to capital outlay. Fire purchased a new Tender truck at \$453,000.
- Other Services & Charges expense is higher in Ambulance for 2023. Increased paramedic training accounts for this increase.
- Capital Outlay is higher in Fire for 2023. Purchase of a new Tender truck accounts for the variance. Additional equipment budgeted for 2023, at approximately \$233,000 remains to be spent in 2023.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
FIRE EXPENSE					
PERSONNEL EXPENSES	370,773	451,893	81,120	938,605	48%
SUPPLIES	17,060	65,072	48,012	124,966	52%
OTHER SERVICES & CHARGES	269,873	202,007	(67,866)	542,866	37%
MISCELLANEOUS	30,287	16,641	(13,646)	188,961	9%
CAPITAL OUTLAY	131,808	464,497	332,689	726,222	64%
TRANSFERS	42,697	44,391	1,694	88,782	50%
TOTAL FIRE EXPENSE	862,499	1,244,502	382,003	2,610,402	48%
AMBULANCE EXPENSE					
PERSONNEL EXPENSES	968,371	1,015,009	46,638	2,862,938	35%
SUPPLIES	40,036	39,708	(328)	121,400	33%
OTHER SERVICES & CHARGES	88,327	101,846	13,519	266,760	38%
MISCELLANEOUS	93,727	68,316	(25,410)	67,120	102%
CAPITAL OUTLAY	-	156,503	156,503	-	0%
TOTAL AMBULANCE EXPENSE	1,190,460	1,381,382	190,922	3,318,218	42%
REVENUES OVER/(UNDER)EXPEDITURES	(328,402)	(880,833)	(552,431)	(50,290)	

Arena – Fund 615

VIII-04

- Arena Sales Income has increased from 2022, appears to be on pace to meet budget.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
615-ARENA					
LEVY/TAX	26,731	49,425	22,694	168,330	29%
SALES INCOME	266,093	286,395	20,302	508,991	56%
INVESTMENT INCOME	(16,414)	9,375	25,789	5,000	188%
MISCELLANEOUS	83,134	-	(83,134)	50,500	0%
TOTAL REVENUES	359,544	345,195	(14,349)	732,821	47%
PERSONNEL EXPENSES	150,220	159,606	9,386	424,892	38%
SUPPLIES	26,124	35,089	8,965	57,250	61%
OTHER SERVICES & CHARGES	84,174	93,853	9,678	196,407	48%
MISCELLANEOUS	966	1,791	826	1,050	171%
CAPITAL OUTLAY	-	9,959	9,959	42,500	0%
TRANSFERS	5,132	5,361	230	10,722	50%
TOTAL EXPENDITURES	266,615	305,659	39,043	732,821	42%
REVENUES OVER/(UNDER)EXPEDITURES	92,928	39,536	(53,392)	-	

Enterprise Funds

VIII-04

The Enterprise funds consist of our three utility funds and the hydro plant.

Water – Fund 600

- Water revenue is steady with 24% collected as of June 30th.
- Personnel expense is again lower than budgeted in 2023, due to the vacancy of the PW Director position, which has been filled with a consultant. This trend is seen in the other enterprise funds as well.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
600-WATER					
CHARGES FOR SERVICES	559,154	586,599	27,446	2,452,223	24%
INVESTMENT EARNINGS	(83,194)	68,292	151,487	21,000	325%
SALE OF METERS	14,508	15,114	606	35,000	43%
WAC CHARGES	129,150	106,088	(23,063)	160,000	66%
MISCELLANEOUS	23,484	49,775	26,290	-	0%
TOTAL REVENUES	643,102	825,868	182,766	2,668,223	31%
PERSONNEL EXPENSES	163,658	147,012	(16,647)	638,423	23%
SUPPLIES	39,255	53,068	13,812	159,100	33%
OTHER SERVICES & CHARGES	205,695	203,208	(2,487)	498,525	41%
MISCELLANEOUS	850	28,565	27,715	1,250	2285%
CAPITAL OUTLAY	158,015	77,583	(80,432)	597,500	13%
DEBT	56,476	98,614	42,139	687,776	14%
TRANSFERS	19,439	20,411	-	40,822	50%
TOTAL EXPENDITURES	643,388	628,461	(14,927)	2,623,396	24%
REVENUES OVER/(UNDER)EXPEDITURES	(286)	197,407	197,693	44,827	

Sewer – Fund 601

VIII-04

- The sewer revenue is also steady at 31% collected since June 30th.
- Expense is in line with the budget. Capital outlay expects a large increase in the second half of the year.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
601-WASTEWATER					
CHARGES FOR SERVICES	856,332	881,848	25,516	2,888,876	31%
INVESTMENT EARNINGS	(52,966)	37,222	90,188	14,000	266%
SAC CHARGES	39,390	32,603	(6,788)	60,000	54%
MISCELLANEOUS	80,915	18,355	(62,560)	18,333	0%
TOTAL REVENUES	923,671	970,027	46,356	2,981,209	33%
PERSONNEL EXPENSES	122,787	148,635	25,848	437,876	34%
SUPPLIES	2,004	1,711	(293)	6,400	27%
OTHER SERVICES & CHARGES	999,449	1,027,489	28,040	1,779,863	58%
MISCELLANEOUS	-	-	-	4,100	0%
CAPITAL OUTLAY	314,854	30,433	(284,421)	575,000	5%
TRANSFERS	14,730	27,316	12,586	171,190	16%
DEBT	18,647	19,579	933	39,158	50%
TOTAL EXPENDITURES	1,472,471	1,255,163	(217,308)	3,013,587	42%
REVENUES OVER/(UNDER)EXPEDITURES	(548,800)	(285,136)	263,664	(32,378)	

Storm Water – Fund 603

- The storm water fund revenue in line with the other utilities.
- A street sweeper was purchased in the first half of 2022, which accounts for the large decrease from 2022-23.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
603-STORM WATER UTILITY					
CHARGES FOR SERVICES	264,228	275,360	11,132	833,262	33%
INVESTMENT EARNINGS	(34,976)	20,871	55,847	3,000	696%
MISCELLANEOUS	-	-	-	-	0%
TOTAL REVENUES	229,252	296,230	66,979	836,262	35%
PERSONNEL EXPENSES	117,541	139,672	22,131	401,250	35%
SUPPLIES	1,665	1,382	(283)	3,000	46%
OTHER SERVICES & CHARGES	14,737	30,270	15,533	97,997	31%
MISCELLANEOUS	2,600	2,650	50	10,200	26%
CAPITAL OUTLAY	287,854	21,889	(265,965)	117,000	19%
TRANSFERS	4,328	4,544	217	9,088	50%
TOTAL EXPENDITURES	428,724	200,407	(228,316)	638,535	31%
REVENUES OVER/(UNDER)EXPEDITURES	(199,472)	95,823	295,295	197,727	

Hydro – Fund 620

VIII-04

- A study examining the long-term viability of the Hydro Plant, at a cost of \$100,000 accounts for the budget increase from 2022. Current year spending is on track to remain within budget for 2023.

	PRIOR YEAR TO DATE 6/30/2022	CURRENT YEAR TO DATE 6/30/2023	VARIANCE FROM 2022	CURRENT BUDGET 2023	PERCENTAGE OF BUDGET YTD 2023
REVENUES OVER/(UNDER)EXPEDITURES	92,928	39,536	(53,392)	-	
620-HYDRO ELECTRIC					
CHARGES FOR SERVICES	259,606	302,466	42,860	710,000	43%
INVESTMENT EARNINGS	(5,362)	3,815	9,177	1,000	381%
MISCELLANEOUS	44,978	5,282	(39,696)	5,500	96%
TOTAL REVENUES	299,222	311,563	12,341	716,500	43%
			-		
PERSONNEL EXPENSES	12,446	20,186	7,740	66,046	31%
SUPPLIES	70	68	(2)	1,450	5%
OTHER SERVICES & CHARGES	198,441	211,324	12,883	407,535	52%
CAPITAL OUTLAY	-	-	-	76,000	0%
TRANSFERS	143,564	144,300	737	270,267	53%
TOTAL EXPENDITURES	354,520	375,878	21,357	821,298	46%
REVENUES OVER/(UNDER)EXPEDITURES	(55,298)	(64,315)	(9,016)	(104,798)	

City-Wide Debt Service

- Debt Service expenditures are as anticipated. The principal payment due date is February 1st; all principal payments were made as of the end of the first quarter. Interest payments are made on February 1st as well as August 1st.

Transfers

VIII-04

2023 Transfers

- Quarterly transfers are made for administrative charges, internal funding, and savings needs. Transfers posted for 2nd quarter 2023 were all budgeted transfers or budgeted use of stabilization funds.

City of Hastings 2023 Transfer Detail

Transfers in to:			Transfers out of:		
Fund	Fund Name	Amount	Fund	Fund Name	Amount
Budgeted Administrative Transfers					
101	General Fund	7,142.25	200	Parks	7,142.25
101	General Fund	2,075.50	201	Aquatic Center	2,075.50
101	General Fund	95.25	205	Cable TV	95.25
101	General Fund	129.25	210	Heritage Preservation	129.25
101	General Fund	17,775.50	213	Fire & Ambulance	17,775.50
101	General Fund	157.75	220	LeDuc Mansion Operation	157.75
101	General Fund	5,438.50	407	HRA Redevelopment of the EDA	5,438.50
101	General Fund	10,205.50	600	Water	10,205.50
101	General Fund	9,789.50	601	Wastewater	9,789.50
101	General Fund	2,272.00	603	Storm Water	2,272.00
101	General Fund	2,680.50	615	Arena	2,680.50
101	General Fund	7,733.50	620	Hydro Electric	7,733.50
Budgeted Internal Service Fund Transfers					
701	Retiree Health	85,000.00	101	General Fund	85,000.00
702	Compensated Absences	75,000.00	101	General Fund	75,000.00
Budgeted Vehicle and Capital Equipment Purchases					
703	Vehicle Reloving Fund	20,275.00	101	General Fund	20,275.00
703	Vehicle Reloving Fund	35,513.50	213	Fire & Ambulance	35,513.50
Budgeted Hydro Transfer					
101	General Fund	55,250.00	620	Hydro electric	55,250.00

Cash and Investments Balances

VIII-04

- Cash balances fluctuate throughout the year based on planned spending, receipt of fund revenues and the timing of property tax payments. The cash balance within a fund can be one indicator of the health of the fund.

FUND DESCRIPTION	June 30, 2022	June 30, 2023
General Fund	7,463,718	8,499,951
Parks	1,497,847	608,025
Aquatic Center	448,166	464,744
Cable TV	105,617	103,444
Cable Access	37,852	39,601
Heritage Preservation	88,136	95,371
Fire & Ambulance	189,198	(1,053,152)
LeDuc Historical Estate Operations	145,641	129,403
Police Reserves	23,437	33,517
DUI Enforcement & Forfeitures	44,944	44,444
2013 Equipment Certificates	64,042	63,146
Parks Capital Projects	99,266	963,940
Budget Stabilization Fund	352,232	345,514
HEDRA	948,209	556,559
TIF 3 Guardian Angels (099)	570	9,840
TIF 5 NAPA (116)	23,226	517
TIF 4 Downtown Redevelopment (007)	(21,288)	(21,288)
TIF 7 Hudson Sprayers	12,161	12,976
TIF 8 Schoolhouse Square	6	2,610
PW Cold Storage Building	902,106	192
2022 Improvements	3,252,840	171,508
2023 Improvements	0	(454,683)
Debt Redemption	989,875	961,761
2022 Cold Storage Building	0	(13,183)
2016A GO TIF (quasi refunding) Bonds	125,992	129,523
2012 GO Improvement Bonds	70,525	36,516
2013 GO Improvement Bonds	35,414	13,234
2014 GO Improvement Bonds	76,621	60,458
2015 GO Improvement Bonds	105,414	103,572
2016 GO Improvement Bonds	168,600	138,317
2017 GO Improvement Bonds	75,566	66,010
2018 GO Improvement Bonds	(25,301)	(37,315)
2019 GO Improvement Bonds	896,429	833,266
2020 GO Improvement Bonds	430,148	455,011
2021 GO Improvement Bonds	308,624	288,275
2022 GO Improvement Bonds	0	588,420
Water	3,997,077	3,076,098
Wastewater	1,840,306	1,781,675
Storm Water	934,673	1,256,066
Arena	575,908	518,616
Hydro Electric	116,825	264,974
Retiree Health	252,219	255,237
Compensated Absences	78,013	118,257
Vehicle Revolving Fund	605,891	708,288
Insurance Fund	508,367	771,269

2023 2nd Quarter Financial Update

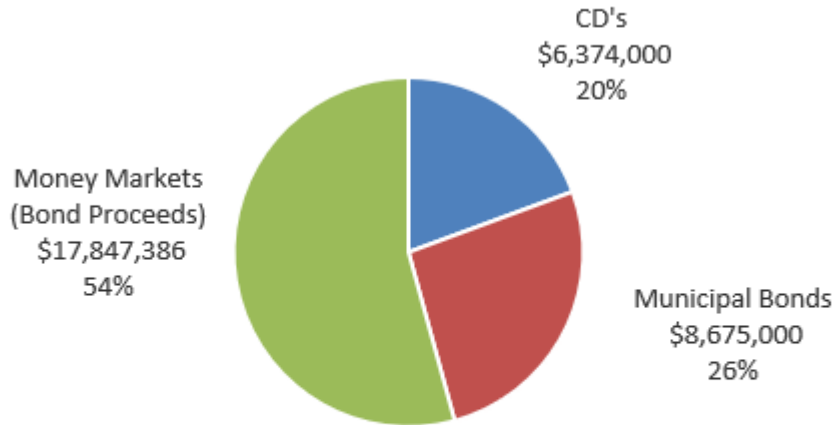
Escrow -Dev/Eng/TIF-HRA	556,236	451,575	VIII-04
Ruth Doffing Trust Fund-Library	89,930	89,797	
C. Simmons Trust	214,505	218,958	
C. Simmons Residuary	(358)	(10,126)	

Investments

VIII-04

- The City’s total investment portfolio was valued at \$32,896,386 as of June 30, 2023.
- Allocation of the City’s portfolio is as follows. Additional detail is available in Appendix A.

City of Hastings Investment Portfolio-June 30, 2023



CD's	\$	6,374,000	6,374,000.00
Municipal Bonds	\$	8,675,000	1,787,054.30
Money Markets (Bond Proceeds)	\$	17,847,386	17,847,386.19

Additional Information

Further detail of the information presented here may be obtained by contacting the Finance Department. The Finance Manager may be reached for questions at 651-480-2347 or CEitemiller@hastingsmn.gov. The Assistant Finance Manager may be reached at 651-480-2354 or ABertrand@hastingsmn.gov.

Appendix A – Investment Holdings
Detail of Municipal Bonds, Agencies and CDs

City of Hastings Investment Detail					
Held With	TYPE	Description	Maturity	Rate	Par
UBS FINANCIAL	CD	Medallion Bank	7/24/23	2.10%	240,000
UBS FINANCIAL	CD	Comenity Cap Bank Salt Lake City, Utah	09/14/23	3.31%	249,000
UBS FINANCIAL	CD	Morgan Stanley	12/26/23	1.88%	105,000
UBS FINANCIAL	CD	State Bank New York	02/28/24	3.20%	245,000
UBS FINANCIAL	CD	Bank United	04/15/24	0.47%	99,000
UBS FINANCIAL	CD	Goldman Sacs	04/22/24	2.46%	97,000
UBS FINANCIAL	CD	Ally Bank Sandy, Utah	04/22/24	2.46%	245,000
UBS FINANCIAL	CD	New York Community Bank	09/10/24	0.69%	245,000
UBS FINANCIAL	CD	Zions Bankcorp UT US	9/27/24	5.40%	243,000
UBS FINANCIAL	CD	Industrial And Community New York, US	10/18/24	0.64%	245,000
UBS FINANCIAL	CD	Third Fed SVGS & LN Association	11/25/24	2.05%	245,000
UBS FINANCIAL	CD	City National Bank CA, US	11/25/24	4.89%	244,000
UBS FINANCIAL	CD	Popular Bank New York, US	3/17/25	2.02%	245,000
UBS FINANCIAL	CD	Synchrony Bank	04/02/25	2.93%	249,000
UBS FINANCIAL	CD	Capital One Bank USA	04/07/25	2.68%	245,000
UBS FINANCIAL	CD	BMW Bank North America	11/20/25	0.56%	100,000
UBS FINANCIAL	CD	Texas Exchange Bank	11/25/25	0.68%	245,000
UBS FINANCIAL	CD	BMO Harris Bank	3/18/26	0.79%	245,000
UBS FINANCIAL	CD	Comenity Bank	3/18/26	2.15%	200,000
UBS FINANCIAL	CD	Customers Bk PA US	3/24/26	5.10%	243,000
UBS FINANCIAL	CD	FN CB BK PA US	05/26/26	4.61%	244,000
UBS FINANCIAL	CD	UBS Bank	06/16/26	0.97%	245,000
UBS FINANCIAL	CD	Sallie Mae	07/21/26	1.14%	245,000
UBS FINANCIAL	CD	Toyota Financial Services	07/22/26	1.08%	245,000
UBS FINANCIAL	CD	Live Oak Banking Company	08/13/26	92.00%	246,000
UBS FINANCIAL	CD	First National Bank MI US	05/28/27	1.01%	245,000
UBS FINANCIAL	CD	Morgan Stanley PRV NY US	09/16/27	4.20%	245,000
UBS FINANCIAL	CD	Morgan Stanley Bk UT US	09/16/27	4.20%	140,000
UBS FINANCIAL	CD	Celtic Bank	08/25/28	1.69%	245,000

City of Hastings Investment Detail					
UBS FINANCIAL	MU	Utah HSG Corp Single Fam	07/01/23	2.28%	110,000
UBS FINANCIAL	MU	New York City Transition	11/01/23	2.42%	250,000
UBS FINANCIAL	MU	Chino, CA Pub Fing AUTH	09/01/24	1.13%	285,000
UBS FINANCIAL	MU	Hoover AL BRD ED PUB SC	02/15/25	1.06%	175,000
UBS FINANCIAL	MU	San Jose, CA FIN AU	06/01/25	1.08%	120,000
UBS FINANCIAL	MU	Riverside, CA Pension Obligation	06/01/25	2.35%	400,000
UBS FINANCIAL	MU	South Washington Co ISD	06/01/25	5.05%	500,000
UBS FINANCIAL	MU	University of California	07/01/25	3.18%	500,000
UBS FINANCIAL	MU	Sterling, IL	11/01/25	1.11%	150,000
UBS FINANCIAL	MU	Louisville & Jefferson	05/15/26	3.65%	285,000
UBS FINANCIAL	MU	Fairfax Cnty VA Econ Dev	10/01/26	1.52%	125,000
UBS FINANCIAL	MU	Oregon State Department	11/15/26	2.47%	440,000
UBS FINANCIAL	MU	Altoona, PA Area Schools	12/01/26	1.30%	120,000
UBS FINANCIAL	MU	Fort Lauderdale FL SPL O	01/01/27	1.47%	180,000
UBS FINANCIAL	MU	New York State Dorm Authority	03/15/27	1.80%	105,000
UBS FINANCIAL	MU	Missouri St Brd Pub Bldg	04/01/27	1.79%	165,000
UBS FINANCIAL	MU	La Habra, CA Pension	08/01/27	2.37%	300,000
UBS FINANCIAL	MU	New York City GO Bonds	08/01/27	1.60%	365,000
UBS FINANCIAL	MU	Tustin CA Uni Sch T Sch	08/01/27	1.33%	155,000
UBS FINANCIAL	MU	Chino, CA Pub FING AUTH	09/01/27	2.25%	250,000
UBS FINANCIAL	MU	San Luis UNIT/Westland	09/01/27	2.27%	500,000
UBS FINANCIAL	MU	Tennessee State School Board	11/01/27	1.19%	170,000
UBS FINANCIAL	MU	Vermillion County IL Community	12/01/27	1.79%	100,000
UBS FINANCIAL	MU	New York State Dorm Authority	02/15/28	2.92%	125,000
UBS FINANCIAL	MU	New York City GO Bonds	03/01/28	1.90%	250,000
UBS FINANCIAL	MU	New York State Urban Dev Co	03/15/28	2.01%	250,000
UBS FINANCIAL	MU	New York State Dorm Authority	03/15/28	2.01%	260,000
UBS FINANCIAL	MU	Wisc St Gen FD APP	05/01/28	2.56%	115,000
UBS FINANCIAL	MU	Long Beach, CA CMNTY COLL	08/01/28	2.62%	420,000
UBS FINANCIAL	MU	Salinas VY CA SOLID WASTE	08/01/28	2.45%	200,000
UBS FINANCIAL	MU	UNIV AR UNIV	10/01/28	2.05%	340,000
UBS FINANCIAL	MU	Trustees of the California State Union	11/01/28	2.37%	200,000
UBS FINANCIAL	MU	San Bernadino, CA CMTY	08/01/29	2.95%	400,000
UBS FINANCIAL	MU	Rio, CA Elementary School	08/01/29	3.09%	235,000
UBS FINANCIAL	MU	Cook County SCH NO 101	11/01/29	1.74%	130,000
UBS FINANCIAL	MM	UBS Money Market			7,018,420
4M Fund	MM	4M Money Market			10,828,966



City Council Memorandum

To: Mayor Fasbender and City Council
From: John Hinzman, Community Development Director
Date: August 21, 2023
Item: Authorize Signature: 2nd Amendment to Development Agreement - Heritage Ridge 3rd Addition

Council Action Requested:

Authorize signature of the attached 2nd Amendment to the Development Agreement between the City and Creative Homes for the development of Heritage Ridge 3rd Addition containing 40 lots located at the northwest corner of General Sieben Drive and Fallbrooke Drive.

The amendment extends the date for installation of bituminous wear course (final course) after the first course (base course) until October 31, 2024. Approval would be subject to minor modifications by staff. A simple majority is necessary for action.

Background Information:

The City Council authorized signature of the original agreement on April 18, 2022. Final Plat approval was granted on September 7, 2021 to TC Land, LLC. The assignment of TC Land's approval to Creative Homes was approved by the Council on February 7, 2022. The City Council authorized signature of the 1st Amendment on May 2, 2022.

Financial Impact:

The addition of 40 home sites will add to the tax base and create needed housing opportunities.

Advisory Commission Discussion:

N/A

Attachments:

- 2nd Amendment to Development Agreement

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT (this “Second Amendment”) is made and entered into on the _____ day of _____, 2023 (“Effective Date”), by and between the City of Hastings, a Minnesota municipal corporation (“City”), and Creative Home Construction Investments LLC, a Wisconsin limited liability company (“Developer”).

RECITALS:

WHEREAS, the City and Developer entered into a Development Agreement for the plat of Heritage Ridge 3rd Addition dated April 28, 2022, recorded as Document No. 3546022 on June 24, 2022 in the Dakota County Recorder’s Office, as amended by the First Amendment to Development Agreement dated May 2, 2022, recorded as Document No. 3546023 on June 24, 2022 in the Dakota County Recorder’s Office (collectively “Development Agreement”), for the real property identified in the Development Agreement; and

WHEREAS, the Developer has requested an extension of installing the bituminous wear course; and

WHEREAS, the City does not object to the requested extension.

NOW, THEREFORE, in consideration of the mutual promises and covenants of each to the other contained in this Second Amendment and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto do covenant and agree as follows:

1. The entire Development Agreement is hereby incorporated into this Second Amendment, except as modified below.
2. Section 4.5 of the Development Agreement shall be removed and replaced in its entirety as follows:

4.5. INTERIM BITUMINOUS STREET. The DEVELOPER will construct a bituminous wedge for the roadways within the FINAL PLAT. The DEVELOPER shall install the bituminous wear course of streets after the first course (base course) has

weathered a winter season, consistent with warranty requirements, but no later than October 31, 2024. A bituminous ramping wedge to protect the concrete lip from snowplow damage shall be installed with the bituminous base course. Prior to paving the bituminous wear course, the ramping wedge must be milled off. The CITY will thoroughly inspect all curb and gutter for damage prior to the installation of the bituminous wear course and may require repairs and/or replacement by DEVELOPER depending on the severity of damage. Final acceptance of the required improvements by the CITY will not be granted until all work, including final wear course, is completed.

3. Except as provided for above, the terms and provisions of the Development Agreement shall remain in full force and effect.
4. This Second Amendment and all disputes or controversies arising out of or relating to this Second Amendment or the transactions contemplated hereby shall be governed by, and construed in accordance with, the internal laws of the State of Minnesota, without regard to the laws of any other jurisdiction that might be applied because of the conflicts of laws principles of the State of Minnesota.
5. Nothing contained herein shall be deemed a waiver by the CITY of any governmental immunity defenses, statutory or otherwise. Further, any and all claims brought by Developer or its successors or assigns, shall be subject to any governmental immunity defenses of the CITY and the maximum liability limits provided by Minnesota Statutes, Chapter 466.
6. This Second Amendment may be executed in two or more counterparts, all of which shall be considered one and the same instrument and shall become effective when one or more counterparts have been signed by the parties and delivered to the other parties.
7. This Second Amendment shall not be amended, modified or supplemented, except by a written instrument signed by an authorized representative of each party.

[remainder of page intentionally blank]

IN AGREEMENT, the parties hereto have hereunto set their hands as of the Effective Date.

**CITY:
CITY OF HASTINGS**

By: _____
Mary Fasbender
Its Mayor

By: _____
Kelly Murtaugh
Its City Clerk

STATE OF MINNESOTA)
)
COUNTY OF WASHINGTON) ss.

On this _____ day of _____, 2023, before me a Notary Public within and for said County, personally appeared Mary Fasbender and Kelly Murtaugh to me personally known, who being each by me duly sworn, each did say that they are respectively the Mayor and City Clerk of the City of Hastings, the municipality named in the foregoing instrument, and that the said instrument was signed on behalf of said municipality by authority of its City Council and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said municipality.

Notary Public



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: John Hinzman, Community Development Director
Date: August 21, 2023
Item: Resolution: Minor Subdivision – Glendale and Spiral

Council Action Requested:

Adopt the attached resolution granting a minor subdivision of City owned land located at the northwest corner of Glendale Road and Spiral Blvd (PID 19-03500-84-010). Approximately five acres from Spiral Blvd northward would be split and sold to Northern State Services LLC (Rick Ries) for incorporation into Ries Addition. The City would retain the remaining 15 acres south of Spiral Blvd. A simple majority is necessary for action.

Background Information:

The Minor Subdivision is necessary to separate the northern +/-5.0 acres platted as Ries Addition from the remaining property prior to recording of the Plat. The City Council approved the sale of property to Northern State Services on June 26, 2023 and the Plat of Ries Addition, a two-lot rural residential subdivision, on July 17, 2023.

Financial Impact:

The subdivision will allow for sale of the property and generate \$60,960 in revenue as well as an increase in the community's annual tax base. City maintenance expenses for the property will cease.

Advisory Commission Discussion:

N/A

Council Commission Discussion:

N/A

Attachments:

- Location Map
- Resolution

LOCATION MAP



**CITY OF HASTINGS
DAKOTA COUNTY, MINNESOTA**

VIII-06

RESOLUTION _____

**A RESOLUTION APPROVING THE PROPERTY SPLIT OF
PARCEL IDENTIFICATION NUMBER 19-03500-84-010 IN HASTINGS, MINNESOTA**

Council member _____ introduced the following resolution and moved its adoption:

WHEREAS, Dakota County Parcel Identification Number 19-03500-84-010 is located in the City of Hastings, Dakota County, Minnesota, legally described on Exhibit A (“the Property”), attached hereto and incorporated herein; and

WHEREAS, the Property is owned by the City of Hastings (“City”); and

WHEREAS, the City desires to split the Property, resulting in two separate tax parcels legally described as Parcel A and Parcel B on Exhibit B, attached hereto and incorporated herein; and

WHEREAS, the City Council has reviewed the proposed lot split and has no objection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hastings, Minnesota, approval is given to the split of the Property into two separate lots of record legally described as Parcel A and Parcel B on Exhibit B.

Council member _____ moved a second to this resolution and upon being put to a vote it was adopted by the Council Members present.

Adopted by the Hastings City Council this _____ day of _____, 2023, with the following vote:

Ayes:

Nays:

Absent:

Mary D. Fasbender, Mayor

ATTEST:

Kelly Murtaugh, City Clerk

I HEREBY CERTIFY that the above is a true and correct copy of resolution presented to and ^{VIII-06}
adopted by the City of Hastings, County of Dakota, Minnesota, on the ____ day of
_____, 2023, as disclosed by the records of the City of Hastings on file and of
record in the office.

Kelly Murtaugh, City Clerk

SEAL

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

VIII-06

That part of the Southwest Quarter of the Southeast Quarter of Section 35, Township 115, Range 17, Dakota County, Minnesota lying west of Glendale Road and subject to highway easement Parcel 1 on County Right-of-Way Map 108.

Abstract Property
PID: 19-03500-84-010

EXHIBIT B
LEGAL DESCRIPTIONS OF PARCEL A AND PARCEL B

VIII-06

Parcel A:

That part of the Southwest Quarter of the Southeast Quarter of Section 35, Township 115, Range 17, described as BEGINNING at the northwest corner of said Southwest Quarter of the Southeast Quarter; thence South 0 degrees 15 minutes 13 seconds East along the west line of said Southwest Quarter of the Southeast Quarter 578.64 feet; thence northeasterly 535.96 feet along a curve that is concave to the northwest having a radius of 707.00 feet, central angle of 35 degrees 01 minute 17 seconds, chord distance of 425.45 feet, and the chord of said curve bears North 52 degrees 26 minutes 53 seconds East; thence North 34 degrees 56 minutes 16 seconds East, tangent to the last described curve, 104.02 feet; thence northeasterly 253.80 feet along a curve concave to the southeast, having a radius of 260.00 feet, central angle of 55 degrees 55 minutes 45 seconds, chord distance of 243.84 feet, and the chord of said curve bears North 62 degrees 54 minutes 08 seconds East; thence South 89 degrees 58 minutes 45 seconds East, not tangent to the last described curve; 50.00 feet to the centerline of Dakota County Road 91, as now traveled; thence North 0 degrees 01 minute 15 seconds East along said centerline of County Road 91 a distance of 125.04 feet to the north line of said Southwest Quarter of the Southeast Quarter; thence South 89 degrees 49 minutes 32 seconds West along said north line of the Southwest Quarter 666.55 feet to the point of beginning. Subject to highway easement

Parcel B:

That part of the Southwest Quarter of the Southeast Quarter of Section 35, Township 115, Range 17, Dakota County, Minnesota lying west of Glendale Road and subject to highway easement Parcel 1 on County Right-of-Way Map 108; except that portion lying northerly and westerly of the following described line:

Commencing at the northwest corner of said Southwest Quarter of the Southeast Quarter of Section 35, Township 115, Range 17, Dakota County, Minnesota; thence South 0 degrees 15 minutes 13 seconds East along the west line of said Southwest Quarter of the Southeast Quarter 578.64 feet to the point of beginning of the line to be described; thence northeasterly 535.96 feet along a curve that is concave to the northwest having a radius of 707.00 feet, central angle of 35 degrees 01 minute 17 seconds, chord distance of 425.45 feet, and the chord of said curve bears North 52 degrees 26 minutes 53 seconds East; thence North 34 degrees 56 minutes 16 seconds East, tangent to the last described curve, 104.02 feet; thence northeasterly 253.80 feet along a curve concave to the southeast, having a radius of 260.00 feet, central angle of 55 degrees 55 minutes 45 seconds, chord distance of 243.84 feet, and the chord of said curve bears North 62 degrees 54 minutes 08 seconds East; thence South 89 degrees 58 minutes 45 seconds East, not tangent to the last described curve; 50.00 feet to the centerline of Dakota County Road 91, as now traveled and thence terminating.



City Council Memorandum

To: Mayor Fasbender & City Council Members

From: John Townsend, Fire Chief

Date: August 15, 2023

Item: Approve Agreement for Professional Services and Business Associate Addendum for Protected Health Information with Emergency Service Perspectives.

Council Action Requested:

Approve Professional Services Agreement and Addendum for Protected Health Information with Emergency Service Perspectives.

Background Information:

The agreement with Emergency Service Perspectives is part of upgrading the Image Trend records management system. The addendum is for access to our records management system and protected health information.

Financial Impact: 2023 budgeted records management upgrade; no impact to budget

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments: 1. Professional Services Agreement
2. Business Associate Addendum

PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (“Agreement”) made this 21st day of August 2023 (“Effective Date”), by and between the **CITY OF HASTINGS**, a Minnesota municipal corporation (“City”) and **EMERGENCY SERVICE PERSPECTIVES (ESP)**, a Minnesota business (“Consultant”).

IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

- 1. CONTRACT DOCUMENTS.** The Contract consists of the following documents:
 - A. This Professional Services Agreement;
 - B. Business Associate Addendum

- 2. SCOPE OF SERVICES.** The City retains Consultant and Consultant agrees to provide the following services (the “Project”):
 - A. From the date of this Agreement through one calendar year, Consultant shall:
 - i. Provide the City with five (5) Arc GIS pre-built Dashboards, including departmental customizations without additional data fields (“Dashboard”).
 - ii. Provide hosting services for the Dashboards.
 - iii. Present ten (10) monthly RMS/GIS in-person meetings lasting 90 to 150 minutes long (“Trainings”). ESP and the City will work cooperatively to determine the topics of and schedule the Trainings to best meet the City’s needs.

- 3. COMPENSATION.**
 - A. For Project services, the City shall pay Consultant as follows:
 - i. Training sessions and dashboards are a combination price. Dashboard hosting comes with the trainings. Package price is \$5000 for one calendar year. The dashboards are software as a service. This is a one-year agreement on hosting this software. Trainings will be completed monthly for 10 months. If additional training is requested, a new contract will be offered. The City will pay this amount in one payment. This amount will be paid in accordance with Paragraph 3.C.
 - B. Consultant shall be paid at a rate of \$150.00 per hour for any work requested and performed above and beyond the scope of the Project. Such hourly rate will be effective for the Term of the Agreement. City will receive a formal

proposal before any billable work is performed above and beyond the scope of this Agreement.

- C. The City will pay Consultant within thirty (30) days upon receipt of a properly itemized invoice for work completed, unless the City has a good faith dispute over the amount of the bill, in which case the City must pay the amount that is not in dispute.

4. TERM. The term of this Agreement shall be effective on the Effective Date of this Agreement for a Term of one year. This Agreement will not be automatically renewed or extended. This Agreement may be extended upon mutual written agreement of the parties. Upon the completion of the term of this Agreement, the City shall be liable to Consultant for services performed and unpaid under this Agreement.

5. DOCUMENTS. The City shall be the owner of all documents, reports, studies, analysis and the like prepared by the Consultant in conjunction with this contract. Except as provided herein, Consultant shall exclusively own all work Consultant provides to the City, including exclusive rights to dashboard designs and lay-outs. The City agrees not to copy, retain, or share dashboards owned or developed by Consultant, unless required pursuant to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. The City shall use its best efforts to protect any data identified as trade secret data as confidential data.

6. COMPLIANCE WITH LAWS AND REGULATIONS. In providing services hereunder, Consultant shall abide by all statutes, ordinances, rules and regulations pertaining to the provisions of services to be provided.

7. STANDARD OF CARE. Consultant shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a professional consultant under similar circumstances. No other warranty, expressed or implied, is included in this Agreement. The City shall not be responsible for discovering deficiencies in the accuracy of Consultant's services.

8. INSURANCE. Consultant shall secure and maintain a professional liability insurance policy. Said policy shall insure payment of damages for legal liability arising out of the performance of professional services for the City, in the insured's capacity as Consultant, if such legal liability is caused by an intentional or negligent act, error or omission of the insured or any person or organization for which the insured is legally liable. The policy shall provide minimum limits of \$1,000,000.00 per incident with a deductible maximum of \$125,000.00.

Before commencing work, Consultant shall provide the City a certificate of insurance evidencing the required insurance coverage in a form acceptable to City. The certificate shall provide that such insurance cannot be cancelled until thirty (30) days after the City has received written notice of the insurer's intention to cancel this insurance.

9. INDEPENDENT CONTRACTOR. The City hereby retains Consultant as an independent contractor upon the terms and conditions set forth in this Agreement. Consultant is not an employee of the City and is free to contract with other entities as provided herein. Consultant shall be responsible for selecting the means and methods of performing the work. Consultant shall

furnish any and all supplies, equipment, and incidentals necessary for Consultant's performance under this Agreement. The City and Consultant agree that Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's agents or employees are in any manner agents or employees of the City. Consultant shall be exclusively responsible under this Agreement for Consultant's own FICA payments, workers compensation payments, unemployment compensation payments, withholding amounts, and/or self-employment taxes if any such payments, amounts, or taxes are required to be paid by law or regulation.

10. ENTIRE AGREEMENT. This Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

11. CONTROLLING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota. In the event of litigation, the exclusive venue shall be in the District Court of the State of Minnesota for Dakota County.

12. ASSIGNMENT. Neither party shall assign this Agreement, or any interest arising herein, without the written consent of the other party.

13. WAIVER. Any waiver by either party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.

14. MINNESOTA GOVERNMENT DATA PRACTICES ACT. Consultant must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to (1) all data provided by the City pursuant to this Agreement, and (2) all data, created, collected, received, stored, used, maintained, or disseminated by the Consultant pursuant to this Agreement. Consultant is subject to all the provisions of the Minnesota Government Data Practices Act, including but not limited to the civil remedies of Minnesota Statutes Section 13.08, as if it were a government entity. In the event Consultant receives a request for data related in any way to this agreement or the services provided hereunder, Consultant must immediately notify the City. Consultant shall not release any data without the written consent of the City. Consultant agrees to defend, indemnify, and hold the City, its officials, officers, agents, employees, and volunteers harmless from any claims resulting from Consultant's officers', agents', partners', employees', volunteers', assignees' or subcontractors' unlawful disclosure and/or use of protected data. The terms of this paragraph shall survive the cancellation or termination of this Agreement.

15. TERMINATION OF THE AGREEMENT. Either City or Consultant may terminate this Agreement upon thirty (30) days' written notice (including delivery by facsimile or electronic mail) to the other party or as provided in Article 4 of the Business Associate Addendum.

IN WITNESS WHEREOF, the parties have entered into this Agreement on the dates shown below. By signing below each party specifically acknowledges that it has read this Agreement, that it has been advised to review the terms of this Agreement with legal counsel, that it has received all necessary approvals from governing bodies to enter into such Agreement, and that it agrees to be legally bound by all terms of the Agreement.

EMERGENCY SERVICE PERSPECTIVES

Dated: _____, 2023

Brian DesLauriers, Owner ESP

Mary Fasbender, Mayor

Kelly Murtaugh, City Clerk

BUSINESS ASSOCIATE ADDENDUM

THIS BUSINESS ASSOCIATE ADDENDUM (“Addendum”), is made and entered into by and between The City of Hastings, Minnesota (“Covered Entity”) and Emergency Service Perspectives. (“Business Associate”). This Addendum shall form a part of all agreements and other engagements as are currently in effect between the parties under which Protected Health Information (“PHI”) (as defined in Article 1 of this Addendum) is provided, created or received by Business Associate from or on behalf of Covered Entity, and shall supersede and replace any business associate agreement or amendment previously entered into between Covered Entity and Business Associate in accordance with the requirements of HIPAA (as defined below) and/or the HITECH Act (as defined below). This Addendum is effective as of the effective date of the Professional Services Agreement (the “*Effective Date*”).

RECITALS

WHEREAS, in connection with the performance of their respective obligations under the terms of the Professional Services Agreement, Covered Entity may disclose certain information to Business Associate, and Business Associate may use and/or disclose certain information, some of which may constitute PHI; and

WHEREAS, Covered Entity and Business Associate intend to protect the privacy and provide for the security of PHI disclosed to, or created, utilized or disclosed by, Business Associate pursuant to the Professional Services Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, and its implementing regulations and guidance issued by the Secretary of the U.S. Department of Health and Human Services (the “Secretary”), all as amended from time to time (“HIPAA”), as well as the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations and guidance issued by the Secretary, all as amended from time to time (the “HITECH Act”), and other applicable laws;

The parties do hereby agree as follows:

Article 1: Definitions

1.1 Definitions. For the purposes of this Addendum, the following defined terms shall have the following definitions. All capitalized terms used in this Addendum but not otherwise defined herein shall have the meaning given in HIPAA or the HITECH Act, as applicable.

- (a) “**Breach**” has the meaning given to such term under HIPAA and the HITECH Act, including, but not limited to, at § 13400(1) of the HITECH Act and 45 CFR § 164.402.
- (b) “**Data Aggregation**” has the meaning given to such term under the Privacy

Standards (as defined below), including, but not limited to, at 45 CFR § 164.501.

- (c) **“Designated Record Set”** has the meaning given to such term under the Privacy Standards, including, but not limited to, at 45 CFR § 164.501.
- (d) **“Health Care Operations”** has the meaning given to such term under the Privacy Standards, including, but not limited to, at 45 CFR § 164.501.
- (e) **“Limited Data Set”** has the meaning given to such term under the Privacy Standards, including, but not limited to, at 45 CFR § 164.514.
- (f) **“Privacy Standards”** means the HIPAA Privacy Rule and HIPAA Security Rule codified at 45 CFR Parts 160, 162 and 164.
- (g) **“Protected Health Information” or “PHI”** has the meaning given to such term under HIPAA, the HITECH Act, and the Privacy Standards, including, but not limited to, at 45 CFR § 160.103.
- (h) **“Unsecured Protected Health Information”** has the meaning given to such term under HIPAA and the HITECH Act, including, but not limited to, at § 13402(h) of the HITECH Act and 45 CFR §164.402.

Article 2: Duties of Business Associate

2.1 Compliance with Privacy Provisions. Business Associate shall only use and disclose PHI in performance of its obligations under the Professional Services Agreement and as permitted or required by law. Business Associate agrees to be in compliance with each applicable requirement of 45 CFR § 164.504(e) and all requirements of the HITECH Act applicable to Business Associate.

2.2 Compliance with Security Provisions. Business Associate shall: (a) implement and maintain administrative safeguards as required by 45 CFR § 164.308, physical safeguards as required by 45 CFR § 164.310 and technical safeguards as required by 45 CFR § 164.312; (b) implement and document reasonable and appropriate policies and procedures as required by 45 CFR § 164.316; (c) use its best efforts to implement and maintain technologies and methodologies that render PHI unusable, unreadable or indecipherable to unauthorized individuals as specified in the HITECH Act; and (d) be in compliance with all requirements of the HITECH Act related to security and applicable to Business Associate.

2.3 Breach of Unsecured PHI.

- (a) With respect to any suspected or actual unauthorized acquisition, access, use or disclosure (“Acquisition”) of Covered Entity’s PHI by Business Associate, its agents or subcontractors, and/or any Acquisition of data in violation of any applicable federal or state law, Business Associate shall (i)

investigate such Acquisition; (ii) determine whether such Acquisition constitutes a reportable Breach under HIPAA, the HITECH Act, and/or applicable federal or state law ; (iii) document and retain its findings under clauses (i) and (ii); and (iv) take any action pertaining to such Acquisition required by applicable federal or state law.

- (b) If Business Associate discovers that a Breach has occurred, Business Associate shall notify Covered Entity in writing without unreasonable delay and in no case later than five (5) days after discovery of the Breach. Business Associate's written notice shall include all available information required by 45 CFR § 164.410 and other applicable law. Business Associate's written report shall be promptly supplemented with any new or additional information. Business Associate agrees to cooperate with Covered Entity in meeting Covered Entity's obligations under the HITECH Act and other applicable law with respect to such Breach. Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s) or others as required by the HITECH Act and other applicable law.

2.4 Permitted Uses of PHI. Satisfactory performance of its obligations under the Professional Services Agreement by Business Associate may require Business Associate to receive or use PHI obtained from Covered Entity, or created or received by Business Associate on behalf of Covered Entity; provided, however, that Business Associate shall not use PHI other than for the purpose of performing Business Associate's obligations under the Professional Services Agreement (including this Addendum), as permitted or required under the Professional Services Agreement (including this Addendum), or as required by law. Business Associate shall not use PHI in any manner that would constitute a violation of HIPAA if so used by Covered Entity.

2.5 Permitted Disclosures of PHI. Business Associate shall not disclose PHI other than for the purpose of performing Business Associate's obligations under the Professional Services Agreement (including this Addendum), as permitted or required under the Professional Services Agreement (including this Addendum), or as required by law. Business Associate shall not disclose PHI in any manner that would constitute a violation of HIPAA if so disclosed by Covered Entity. To the extent that Business Associate discloses PHI to a third party in carrying out its obligations under the Professional Services Agreement, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from such third party that such PHI will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) an agreement from such third party to immediately notify Business Associate of any breaches of confidentiality of the PHI, to the extent the third party has obtained knowledge of such breach.

2.6 Minimum Necessary. Business Associate shall limit its use, disclosure or request

of PHI to only the minimum necessary as required by law.

- 2.7 Retention of PHI.** Unless otherwise specified in the Professional Services Agreement, Business Associate shall maintain and retain PHI for the term of the Professional Services Agreement, and make such PHI available to Covered Entity as set forth in this Addendum.
- 2.8 Safeguarding PHI.** Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as permitted by the Professional Services Agreement and this Addendum. Business Associate will appropriately safeguard electronic PHI in accordance with the standards specified at 45 CFR § 164.314(a). In particular, Business Associate will implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity.
- 2.9 Agents and Subcontractors.** Business Associate shall ensure that any agents (including subcontractors) of Business Associate to whom Business Associate provides PHI received from Covered Entity, or PHI created or received by Business Associate on behalf of Covered Entity, agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including the requirement to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of PHI. Business Associate shall implement appropriate sanctions against agents and subcontractors that violate such restrictions and conditions, including termination of the agency or subcontractor relationship, if feasible, and shall mitigate the effects of any such violations.
- 2.10 Reporting Unauthorized Use or Disclosure.** Business Associate shall report in writing to Covered Entity any use or disclosure of PHI not provided for under the Professional Services Agreement or this Addendum as soon as possible after Business Associate becomes aware of such an incident but in no case later than five (5) days after the date on which Business Associate becomes aware of any such incident; provided, however, that the Parties acknowledge and agree that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but Unsuccessful Security Incidents (as defined below). “Unsuccessful Security Incidents” will include, but not be limited to, pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI. Business Associate shall take (i) prompt corrective action to cure any deficiencies that caused the unauthorized use or disclosure, and (ii) any corrective action required by applicable federal and state law.
- 2.11 Access to Information.** Within five (5) days of Covered Entity’s request, Business Associate shall provide Covered Entity with access to Covered Entity’s PHI

maintained by Business Associate or its agents or subcontractors to enable Covered Entity to fulfill its obligations under the Privacy Standards, including, but not limited to, 45 CFR § 164.524.

- 2.12 Availability of PHI for Amendment.** The parties acknowledge that the Privacy Standards permit an individual who is the subject of PHI to request certain amendments of their records. Upon Covered Entity's request for an amendment of PHI or a record about an individual contained in a Designated Record Set, but not later than five (5) days after receipt of such request, Business Associate and its agents or subcontractors shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under the Privacy Standards, including, but not limited to, 45 CFR § 164.526. If any individual requests an amendment of PHI directly from Business Associate or its agents or subcontractors, Business Associate must notify Covered Entity in writing within five (5) days of the request. Covered Entity has the sole authority to deny a request for amendment of PHI received or created under the terms of the Professional Services Agreement and maintained by Business Associate or its agents or subcontractors.
- 2.13 Accounting of Disclosures.** Upon Covered Entity's request, Business Associate, its agents and subcontractors shall make available the information required to provide an accounting of disclosures to enable Covered Entity to fulfill its obligations under the Privacy Standards, including, but not limited to, 45 CFR § 164.528. For this purpose, Business Associate shall retain a record of disclosure of PHI for at least six (6) years from the date of disclosure. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or subcontractors for at least six (6) years prior to the request, but not before the effective date of the Professional Services Agreement. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received PHI and, if known, the address of the entity or person; (iii) a brief description of PHI disclosed; and (iv) a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. Where a request for an accounting is delivered directly to Business Associate or its agents or subcontractors, Business Associate shall within five (5) days of a request forward it to Covered Entity in writing. It shall be Covered Entity's responsibility to prepare and deliver any such reply to the requested accounting.
- 2.14 Agreement to Restriction on Disclosure.** If Covered Entity is required to comply with a restriction on the disclosure of PHI pursuant to § 13405 of the HITECH Act, then Covered Entity shall provide written notice to Business Associate of the name of the individual requesting the restriction and the PHI affected thereby. Business Associate shall, upon receipt of such notification, not disclose the identified PHI to any health plan for the purposes of carrying out Payment or Health Care Operations, except as otherwise required by law.

- 2.15 Accounting of Disclosures of Electronic Health Records (“EHR”).** If Business Associate is deemed to use or maintain an EHR on behalf of Covered Entity, then Business Associate shall maintain an accounting of any disclosures made through an EHR for Treatment, Payment and Health Care Operations, as required by law. Upon request by Covered Entity, Business Associate shall provide such accounting to Covered Entity in the time and manner specified by law. Alternatively, if Covered Entity responds to an individual’s request for an accounting of disclosures made through an EHR by providing the requesting individual with a list of all business associates acting on behalf of Covered Entity, then Business Associate shall provide such accounting directly to the requesting individual in the time and manner specified by the HITECH Act.
- 2.16 Access to Electronic Health Records.** If Business Associate is deemed to use or maintain an EHR on behalf of Covered Entity with respect to PHI, then, to the extent an individual has the right to request a copy of the PHI maintained in such EHR pursuant to 45 CFR § 164.524 and makes such a request to Business Associate, Business Associate shall provide such individual with a copy of the PHI in the EHR in an electronic format and, if the individual so chooses, transmit such copy directly to an entity or person designated by the individual. Business Associate may charge a fee, not to exceed Contractor’s labor costs to respond, to the individual for providing the copy of the PHI. The provisions of 45 CFR § 164.524, including the exceptions to the requirement to provide a copy of PHI, shall otherwise apply and Business Associate shall comply therewith as if Business Associate were Covered Entity. At Covered Entity’s request, Business Associate shall provide Covered Entity with a copy of an individual’s PHI maintained in an EHR in an electronic format and in a time and manner designated by Covered Entity in order for Covered Entity to comply with 45 CFR § 164.524, as amended by the HITECH Act.
- 2.17 Remuneration for PHI.** Business Associate agrees that it shall not, directly or indirectly, receive remuneration in exchange for any PHI of Covered Entity except as otherwise permitted by law.
- 2.18 Limitations on Use of PHI for Marketing Purposes.** Business Associate shall not use or disclose PHI for the purpose of making a communication about a product or service that encourages recipients of the communication to purchase or use the product or service, unless such communication: (a) complies with the requirements of subparagraph (i), (ii) or (iii) of paragraph (1) of the definition of marketing contained in 45 CFR § 164.501, and (b) complies with the requirements of subparagraphs (A), (B) or (C) of § 13406(a)(2) of the HITECH Act. Covered Entity shall cooperate with Business Associate to determine if the foregoing requirements are met with respect to any such marketing communication.

- 2.19 Governmental Access to Books and Records.** For purposes of determining Covered Entity's compliance with the HIPAA, Business Associate agrees to make available to the Secretary its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity.
- 2.20 Data Ownership.** Business Associate acknowledges that Business Associate has no ownership rights with respect to the PHI.
- 2.21 Insurance.** Business Associate shall maintain commercial general liability insurance, with commercially reasonable liability limits, that includes coverage for damage to persons or property arising from any breach of the terms of this Addendum.
- 2.22 Audits, Inspection and Enforcement.** Within ten (10) days of a written request by Covered Entity, Business Associate and its agents or subcontractors shall allow Covered Entity to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of PHI pursuant to this Addendum for the purpose of determining whether Business Associate has complied with this Addendum; provided, however, that (i) Business Associate and Covered Entity shall mutually agree in advance upon the scope, timing and location of such an inspection; (ii) Covered Entity shall protect the confidentiality of all confidential and proprietary information of Business Associate to which Covered Entity has access during the course of such inspection; and (iii) Covered Entity shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by Business Associate. Covered Entity and its authorized agents or contractors, may, at Covered Entity's expense, examine Business Associate's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to Covered Entity the extent to which Business Associate's security safeguards comply with HIPAA, the HITECH Act or this Addendum, to the extent that Covered Entity determines that such examination is necessary to comply with Covered Entity's legal obligations pursuant to HIPAA or the HITECH Act relating to certification of its security practices. The fact that Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems, books, records, agreements, policies and procedures does not relieve Business Associate of its responsibility to comply with this Addendum, nor does Covered Entity's (i) failure to detect or (ii) detection, but failure to notify Business Associate or require Business Associate's remediation of any unsatisfactory practices, constitute acceptance of such practices or a waiver of Covered Entity's enforcement rights under the Professional Services Agreement or this Addendum.
- 2.23 Return of PHI at Termination.** Upon termination of the Professional Services Agreement, Business Associate shall, where feasible, destroy or return to Covered Entity all PHI received from Covered Entity, or created or received by Business Associate or its agents or subcontractors on behalf of Covered Entity. Where return

or destruction is not feasible, the duties of Business Associate under this Addendum shall be extended to protect the PHI retained by Business Associate. Business Associate agrees not to further use or disclose information for which the return or destruction is infeasible. Business Associate shall certify in writing the destruction of the PHI and to the continued protection of PHI that is not feasible to destroy.

- 2.24 Retention of PHI.** Business Associate and its contractors or agents shall retain communications and documents required to be maintained by HIPAA for six (6) years after termination of the Professional Services Agreement.
- 2.25 Business Associate's Performance of Obligations of Covered Entity.** To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under the HIPAA Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity when it carries out such obligation(s).

Article 3: Duties of Covered Entity

- 3.1 Using Appropriate Safeguards.** Covered Entity shall be responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy and security of PHI transmitted to Business Associate pursuant to the Professional Services Agreement, in accordance with the standards and requirements of HIPAA.

Article 4: Term and Termination

- 4.1 Term.** The provisions of this Addendum shall become effective on the Effective Date and shall continue in effect until all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with the termination provisions in Section 4.2 of this Addendum.
- 4.2 Termination by Covered Entity.**
- (a) A breach by Business Associate of any material provision of this Addendum, as determined by Covered Entity, shall constitute a material breach of the Professional Services Agreement and shall provide grounds for immediate termination of the Professional Services Agreement by Covered Entity.
 - (b) If Covered Entity knows of a pattern of activity or practice of Business Associate that constitutes a material breach or violation of Business Associate's obligations under the provisions of this Addendum or another arrangement and does not terminate the Professional Services Agreement pursuant to Section 4.2(a) of this Addendum, then Business Associate shall take reasonable steps to cure such breach or end such violation, as applicable. If Business Associate's efforts to cure such breach or end such

violation are unsuccessful, Covered Entity shall either (i) terminate the Professional Services Agreement, if feasible or (ii) if termination of the Professional Services Agreement is not feasible, Covered Entity shall report Business Associate's breach or violation to the Secretary.

- 4.3 Termination by Business Associate.** If Business Associate knows of a pattern of activity or practice of Covered Entity that constitutes a material breach or violation of Covered Entity's obligations under the Professional Services Agreement or this Addendum, then Business Associate shall immediately notify Covered Entity. With respect to such breach or violation, Business Associate shall (i) take reasonable steps to cure such breach or end such violation, if possible; or (ii) if such steps are either not possible or are unsuccessful, upon written notice to Covered Entity, terminate the Professional Services Agreement; or (iii) if such termination is not feasible, report Covered Entity's breach or violation to the Secretary.
- 4.4 Termination by Either Party.** Either party may terminate the Professional Services Agreement, effective immediately, if (i) the other party is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act or other security or privacy laws, or (ii) a finding or stipulation that the other party has violated any standard or requirement of HIPAA, the HITECH Act or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.

Article 5: Miscellaneous

- 5.1 Acknowledgment.** Business Associate recognizes and agrees that it is obligated by law to comply with the applicable provisions of the HITECH Act.
- 5.2 Change in Law.** The parties agree to promptly enter into negotiations concerning the terms of the Professional Services Agreement (including this Addendum), and to negotiate in good faith, if, in either party's business judgment, modification of the Professional Services Agreement (including this Addendum) becomes necessary due to legislative, regulatory, or judicial developments regarding HIPAA or the HITECH Act. Covered Entity may terminate the Professional Services Agreement upon thirty (30) days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend the Professional Services Agreement when requested by Covered Entity pursuant to this § 5.2, or (ii) Business Associate does not enter into an amendment to the Professional Services Agreement providing assurances regarding the safeguarding of PHI that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HITECH Act.
- 5.3 Disclaimer.** Covered Entity makes no warranty or representation that compliance by Business Associate with HIPAA, the HITECH Act or this Addendum will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

- 5.4 **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Professional Services Agreement or this Addendum, available to Covered Entity, at no cost to Covered Entity, to testify as witness, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its members/shareholders, managers/directors, officers or employees based upon a claimed violation of HIPAA or the HITECH Act or other laws relating to security and privacy, except where Business Associate, or its subcontractor, employee or agent is a named adverse party.

- 5.5 **No Third-Party Beneficiaries.** Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

- 5.6 **Interpretation.** Section titles in this Addendum are for convenience only, and shall not be used in interpreting this Addendum. Any ambiguity in this Addendum shall be resolved to permit the parties to comply with the requirements of HIPAA and the HITECH Act. In the event of conflict between the Professional Services Agreement and this Addendum, the provisions of this Addendum shall prevail. Any reference in this Addendum to a section in the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E, the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 164, subpart C, or the HITECH Act means the section as in effect or as amended.

The parties hereto have executed this Rider on the day and year first above written on the Professional Services Agreement.

THE CITY OF HASTINGS MN
(Covered Entity)

EMERGENCY SERVICE PERSPECTIVES
(Business Associate)

By: _____

By: _____

Name: _____

Name: BRIAN DESLAURIERS

Title: _____

Title: SOLE PROPRIETOR

Date: _____

Date: 03/19/2023

Vendor: 001254

Amount: 578,940.10

Dept: ENG

Ord. By: CODY MATHIESEN

Acct. # 483-300-3630-6590 #9

Date: 8/14/2023

Request For Payment

APPROVED
rstempski , 8/16/2023, 12:18:02 PM

VIII-08

Date: 7/31/2023

Project: 2023 Neighborhood Infrastructure Improvements

Contractor: BCM Construction Inc.

Request Number: 3

Payment Period: 7/1/2023 - 7/31/2023

ITEM NO.	DESCRIPTION	UNIT	ORIGINAL BID			COMPLETED					
			Quantity	Unit Price	Amount	Total To Date		Previous Payments		This Pay Period	
						Quantity	Amount	Quantity	Amount	Pay Estimate #3 Quantity	Amount
1	CLEARING	TREE	14	\$ 650.00	\$ 9,100.00	17	\$ 11,050.00	17	\$ 11,050.00		\$ -
2	GRUBBING	TREE	15	\$ 315.00	\$ 4,725.00	19	\$ 5,985.00	19	\$ 5,985.00		\$ -
3	REMOVE EXISTING GATE VALVE	EA	25	\$ 200.00	\$ 5,000.00	22	\$ 4,400.00	20	\$ 4,000.00	2	\$ 400.00
4	REMOVE EXISTING HYDRANT & GATE VALVE	EA	4	\$ 515.00	\$ 2,060.00	2	\$ 1,030.00		\$ -	2	\$ 1,030.00
5	REMOVE EXISTING STORM SEWER STRUCTURE (ALL DEPTHS & SIZES)	EA	60	\$ 415.00	\$ 24,900.00	54	\$ 22,410.00	35	\$ 14,525.00	19	\$ 7,885.00
6	REMOVE EXISTING SANITARY MANHOLE	EA	4	\$ 350.00	\$ 1,400.00	4	\$ 1,400.00		\$ -	4	\$ 1,400.00
7	REMOVE EXISTING CONCRETE PEDESTRIAN RAMP	EA	39	\$ 170.00	\$ 6,630.00	37	\$ 6,290.00	21	\$ 3,570.00	16	\$ 2,720.00
8	SALVAGE AND REINSTALL MAIL BOX	EA	7	\$ 185.00	\$ 1,295.00		\$ -		\$ -		\$ -
9	INSTALL MAIL BOX	EA	3	\$ 185.00	\$ 555.00		\$ -		\$ -		\$ -
10	SAWCUT EXISTING BITUMINOUS PAVEMENT	LF	750	\$ 4.00	\$ 3,000.00		\$ -		\$ -		\$ -
11	SAWCUT EXISTING CONCRETE PAVEMENT	LF	50	\$ 8.00	\$ 400.00		\$ -		\$ -		\$ -
12	REMOVE CONCRETE CURB & GUTTER	LF	10670	\$ 3.60	\$ 38,412.00	10670	\$ 38,412.00	4500	\$ 16,200.00	6170	\$ 22,212.00
13	REMOVE EXISTING STORM SEWER PIPE (ALL DEPTHS & SIZES)	LF	1358	\$ 8.50	\$ 11,543.00	1358	\$ 11,543.00	835	\$ 7,097.50	523	\$ 4,445.50
14	REMOVE EXISTING SANITARY SEWER PIPE (ALL DEPTHS & SIZES)	LF	80	\$ 8.50	\$ 680.00	80	\$ 680.00		\$ -	80	\$ 680.00
15	SAND FILL AND ABANDON WATER MAIN	LF	800	\$ 7.00	\$ 5,600.00	396	\$ 2,772.00		\$ -	396	\$ 2,772.00
16	REMOVE EXISTING WATER MAIN (ALL DEPTHS & SIZES)	LF	243	\$ 14.00	\$ 3,402.00	243	\$ 3,402.00		\$ -	243	\$ 3,402.00
17	REMOVE CONCRETE SIDEWALK	SY	2100	\$ 9.00	\$ 18,900.00	1038	\$ 9,342.00	1029	\$ 9,261.00	9	\$ 81.00
18	REMOVE CONCRETE DRIVEWAY	SY	469	\$ 9.00	\$ 4,221.00	135	\$ 1,215.00	135	\$ 1,215.00		\$ -
19	REMOVE BITUMINOUS DRIVEWAY PAVEMENT	SY	60	\$ 11.00	\$ 660.00		\$ -		\$ -		\$ -
20	REMOVE BITUMINOUS PAVEMENT	SY	25450	\$ 0.80	\$ 20,360.00	25450	\$ 20,360.00	25450	\$ 20,360.00		\$ -
21	REMOVE MAIL BOX SPECIAL	EA	2	\$ 350.00	\$ 700.00		\$ -		\$ -		\$ -
22	SUBGRADE PREPARATION OF RECLAIMED SURFACE	SY	11140	\$ 1.10	\$ 12,254.00		\$ -		\$ -		\$ -
23	COMMON EXCAVATION (EV)	CY	6330	\$ 19.75	\$ 125,017.50	5850	\$ 115,537.50	1963	\$ 38,769.25	3887	\$ 76,768.25
24	COMMON EXCAVATION TRAIL (EV)	CY	1040	\$ 17.00	\$ 17,680.00	225	\$ 3,825.00		\$ -	225	\$ 3,825.00
25	HAUL EXCESS RECLAIM MATERIAL (LV)	CY	1014	\$ 9.50	\$ 9,633.00		\$ -		\$ -		\$ -
26	SUBGRADE CORRECTION (EV)	CY	1650	\$ 6.50	\$ 10,725.00	118	\$ 767.00	98	\$ 637.00	20	\$ 130.00
27	CRUSHED ROCK BORROW MATERIAL (LV)	CY	1650	\$ 15.60	\$ 25,740.00		\$ -		\$ -		\$ -
28	GRANULAR PIPE BEDDING (LV)	CY	50	\$ 30.00	\$ 1,500.00		\$ -		\$ -		\$ -
29	SALVAGE AGGREGATE FROM STOCKPILE (MILLINGS)	CY	50	\$ 25.00	\$ 1,250.00		\$ -		\$ -		\$ -
30	AGGREGATE BASE CLASS 5 (STREET)	TON	10511	\$ 12.75	\$ 134,015.25	8434	\$ 107,533.50	2343	\$ 29,873.25	6091	\$ 77,660.25
31	AGGREGATE BASE CLASS 5 (TRAIL OR WALK)	TON	1281	\$ 21.00	\$ 26,901.00	405	\$ 8,505.00		\$ -	405	\$ 8,505.00
32	BIT JOINT SAWING AND SEALING	LF	6780	\$ 4.20	\$ 28,476.00		\$ -		\$ -		\$ -
33	JOINT ADHESIVE	LF	17065	\$ 0.80	\$ 13,652.00		\$ -		\$ -		\$ -
34	FULL DEPTH PAVEMENT RECLAMATION - 8-10 INCHES	SY	11140	\$ 3.25	\$ 36,205.00		\$ -		\$ -		\$ -
35	BITUMINOUS MATERIAL FOR TACK COAT	GAL	5264	\$ 5.25	\$ 27,636.00		\$ -		\$ -		\$ -
36	BITUMINOUS DRIVEWAY SPWEB240B/SPNW230B	SY	60	\$ 63.00	\$ 3,780.00		\$ -		\$ -		\$ -
37	BITUMINOUS WEAR COURSE MIX SPWEB340C (STREET)	TON	3847	\$ 78.50	\$ 301,989.50		\$ -		\$ -		\$ -
38	BITUMINOUS NON WEAR COURSE MIX SPNWB330C (STREET)	TON	6370	\$ 78.50	\$ 500,045.00	1814	\$ 142,399.00	1814	\$ 142,399.00		\$ -
39	BITUMINOUS WEAR COURSE MIX: SPWEB340B (TRAIL)	TON	755	\$ 84.00	\$ 63,420.00		\$ -		\$ -		\$ -
40	12" RCP DES 3006 CL III	LF	58	\$ 127.00	\$ 7,366.00	23	\$ 2,921.00	23	\$ 2,921.00		\$ -
41	15" RCP DES 3006 CL III	LF	1911	\$ 84.50	\$ 161,479.50	1763	\$ 148,973.50	1519	\$ 128,355.50	244	\$ 20,618.00
42	18" RCP DES 3006 CL III	LF	111	\$ 101.00	\$ 11,211.00	94	\$ 9,494.00	94	\$ 9,494.00		\$ -
43	21" RCP DES 3006 CL III	LF	15	\$ 108.00	\$ 1,620.00	15	\$ 1,620.00		\$ -	15	\$ 1,620.00
44	CONNECT TO EXISTING STORM SEWER STRUCTURE	EA	1	\$ 1,500.00	\$ 1,500.00	1	\$ 1,500.00	1	\$ 1,500.00		\$ -
45	CONNECT TO EXISTING STORM SEWER	EA	29	\$ 400.00	\$ 11,600.00	25	\$ 10,000.00	13	\$ 5,200.00	12	\$ 4,800.00
46	CONST DRAINAGE STRUCTURE 24" X 36"	EA	40	\$ 3,350.00	\$ 134,000.00	36	\$ 120,600.00	24	\$ 80,400.00	12	\$ 40,200.00

ITEM NO.	DESCRIPTION	UNIT	ORIGINAL BID			COMPLETED					
			Quantity	Unit Price	Amount	Total To Date		Previous Payments		This Pay Period	
						Quantity	Amount	Quantity	Amount	Pay Estimate #3 Quantity	Amount
47	CONST DRAINAGE STRUCTURE 4020 48" DIA	EA	20	\$ 4,150.00	\$ 83,000.00	17	\$ 70,550.00	12	\$ 49,800.00	5	\$ 20,750.00
48	REPLACE EXISTING STORM SEWER CASTING SPECIAL	EA	8	\$ 1,350.00	\$ 10,800.00		\$ -		\$ -		\$ -
49	ADJUST FRAME RING AND CASTING (SPECIAL)	EA	21	\$ 700.00	\$ 14,700.00		\$ -		\$ -		\$ -
50	HYDRODYNAMIC SEPARATOR	EA	3	\$ 18,200.00	\$ 54,600.00	1	\$ 18,200.00		\$ -	1	\$ 18,200.00
51	GEOTEXTILE FILTER MATERIAL TYPE IV	SY	50	\$ 5.00	\$ 250.00		\$ -		\$ -		\$ -
52	4" CONCRETE SIDEWALK	SF	2750	\$ 7.30	\$ 20,075.00	1413	\$ 10,314.90		\$ -	1413	\$ 10,314.90
53	6" CONCRETE SIDEWALK	SF	390	\$ 9.40	\$ 3,666.00	335	\$ 3,149.00	335	\$ 3,149.00		\$ -
54	B618 CONCRETE CURB & GUTTER	LF	10920	\$ 19.60	\$ 214,032.00	7699	\$ 150,900.40	3672	\$ 71,971.20	4027	\$ 78,929.20
55	CONCRETE VALLEY GUTTER	LF	400	\$ 37.00	\$ 14,800.00		\$ -		\$ -		\$ -
56	REMOVE & REPLACE EXISTING CURB & GUTTER (ALL TYPES & SIZES)	LF	1485	\$ 31.25	\$ 46,406.25	398	\$ 12,437.50	398	\$ 12,437.50		\$ -
57	6" CONCRETE DRIVEWAY PAVEMENT	SY	530	\$ 67.00	\$ 35,510.00	135	\$ 9,045.00	135	\$ 9,045.00		\$ -
58	CONCRETE PEDESTRIAN RAMP	EA	44	\$ 2,150.00	\$ 94,600.00	13	\$ 27,950.00		\$ -	13	\$ 27,950.00
59	TRAFFIC CONTROL	LS	1	\$ 12,600.00	\$ 12,600.00	0.5	\$ 6,300.00	0.5	\$ 6,300.00		\$ -
60	ROCK CONSTRUCTION EXIT	EA	7	\$ 700.00	\$ 4,900.00		\$ -		\$ -		\$ -
61	STORM DRAIN INLET PROTECTION	EA	65	\$ 125.00	\$ 8,125.00	65	\$ 8,125.00	22	\$ 2,750.00	43	\$ 5,375.00
62	SILT FENCE, TYPE MS	LF	250	\$ 5.00	\$ 1,250.00		\$ -		\$ -		\$ -
63	FLOTATION SILT CURTAIN, TYPE MOVING WATER	LF	50	\$ 25.00	\$ 1,250.00		\$ -		\$ -		\$ -
64	EROSION & SEDIMENT CONTROL	LS	1	\$ 4,500.00	\$ 4,500.00	1	\$ 4,500.00	1	\$ 4,500.00		\$ -
65	LOAM TOPSOIL BORROW (LV)	CY	1550	\$ 25.00	\$ 38,750.00		\$ -		\$ -		\$ -
66	EROSION CONTROL BLANKETS CATEGORY 4	SY	50	\$ 4.20	\$ 210.00		\$ -		\$ -		\$ -
67	SEEDING, BLOWN COMPOST	SY	12025	\$ 5.50	\$ 66,137.50		\$ -		\$ -		\$ -
68	PAVEMENT MESSAGE PAINT (RIGHT OR LEFT ARROW)	EA	4	\$ 84.00	\$ 336.00		\$ -		\$ -		\$ -
69	4" SOLID LINE PAINT	LF	10850	\$ 0.20	\$ 2,170.00		\$ -		\$ -		\$ -
70	12" SOLID LINE PAINT	LF	80	\$ 12.00	\$ 960.00		\$ -		\$ -		\$ -
71	4" BROKEN LINE PAINT	LF	1040	\$ 0.20	\$ 208.00		\$ -		\$ -		\$ -
72	CROSSWALK PAINT	SF	108	\$ 9.50	\$ 1,026.00		\$ -		\$ -		\$ -
73	TEMPORARY BYPASS PUMPING	LS	1	\$ 2,500.00	\$ 2,500.00	1	\$ 2,500.00		\$ -	1	\$ 2,500.00
74	CONNECT TO EXISTING SANITARY SEWER STRUCTURE	EA	1	\$ 1,300.00	\$ 1,300.00		\$ -		\$ -		\$ -
75	CONNECT TO EXISTING SANITARY SEWER	EA	1	\$ 980.00	\$ 980.00	1	\$ 980.00		\$ -	1	\$ 980.00
76	CONNECT TO EXISTING SANITARY SEWER SERVICE	EA	10	\$ 500.00	\$ 5,000.00		\$ -		\$ -		\$ -
77	4" ON 8" PVC WYE	EA	10	\$ 340.00	\$ 3,400.00	10	\$ 3,400.00		\$ -	10	\$ 3,400.00
78	4" PVC SDR 26 (FOR SERVICES)	LF	330	\$ 48.00	\$ 15,840.00	15	\$ 720.00		\$ -	15	\$ 720.00
79	8" PVC SDR 35	LF	658	\$ 59.00	\$ 38,822.00	638	\$ 37,642.00		\$ -	638	\$ 37,642.00
80	10" PVC SDR 35	LF	306	\$ 72.00	\$ 22,032.00	306	\$ 22,032.00		\$ -	306	\$ 22,032.00
81	8" DIP SANITARY SEWER (ALL DEPTHS)	LF	20	\$ 180.00	\$ 3,600.00	20	\$ 3,600.00		\$ -	20	\$ 3,600.00
82	CONSTRUCT 8" OUTSIDE DROP	LF	4	\$ 1,200.00	\$ 4,800.00	4	\$ 4,800.00		\$ -	4	\$ 4,800.00
83	TELEWISE SANITARY SEWER	LF	964	\$ 4.00	\$ 3,856.00		\$ -		\$ -		\$ -
84	REPLACE EXISTING SANITARY SEWER CASTING	EA	4	\$ 1,100.00	\$ 4,400.00		\$ -		\$ -		\$ -
85	48" DIA. SSMH	EA	5	\$ 6,000.00	\$ 30,000.00	5	\$ 30,000.00		\$ -	5	\$ 30,000.00
86	EXTRA DEPTH MH 10'+	LF	3	\$ 420.00	\$ 1,260.00	3	\$ 1,260.00		\$ -	3	\$ 1,260.00
87	CONNECT TO EXISTING WATERMAIN	EA	18	\$ 900.00	\$ 16,200.00	18	\$ 16,200.00	17	\$ 15,300.00	1	\$ 900.00
88	CONNECT TO EXISTING WATER SERVICE	EA	11	\$ 300.00	\$ 3,300.00		\$ -		\$ -		\$ -
89	1" CORP STOP	EA	10	\$ 550.00	\$ 5,500.00		\$ -		\$ -		\$ -
90	2" CORP STOP	EA	1	\$ 880.00	\$ 880.00		\$ -		\$ -		\$ -
91	1" CURB STOP AND BOX	EA	10	\$ 600.00	\$ 6,000.00		\$ -		\$ -		\$ -
92	2" CURB STOP AND BOX	EA	1	\$ 1,060.00	\$ 1,060.00		\$ -		\$ -		\$ -
93	HYDRANT 7.5' BURY W/GATE VALVE	EA	5	\$ 8,400.00	\$ 42,000.00	3	\$ 25,200.00	2	\$ 16,800.00	1	\$ 8,400.00
94	REPLACE EXISTING GATE VALVE BOX	EA	7	\$ 750.00	\$ 5,250.00	6	\$ 4,500.00	6	\$ 4,500.00		\$ -
95	CURB STOP COVER CASTING	EA	3	\$ 360.00	\$ 1,080.00		\$ -		\$ -		\$ -
96	ADJUST GATE VALVE SPECIAL - BOLT REPLACEMENT	EA	7	\$ 1,650.00	\$ 11,550.00	6	\$ 9,900.00	6	\$ 9,900.00		\$ -
97	ADJUST EXISTING GATE VALVE BOX	EA	24	\$ 160.00	\$ 3,840.00		\$ -		\$ -		\$ -
98	6" GATE VALVE & BOX	EA	15	\$ 2,225.00	\$ 33,375.00	14	\$ 31,150.00	13	\$ 28,925.00	1	\$ 2,225.00
99	8" GATE VALVE & BOX	EA	7	\$ 3,050.00	\$ 21,350.00	8	\$ 24,400.00	8	\$ 24,400.00		\$ -
100	12" GATE VALVE & BOX	EA	2	\$ 5,350.00	\$ 10,700.00	2	\$ 10,700.00	2	\$ 10,700.00		\$ -
101	CURB STOP BOX REPAIR/EXTENSION	EA	1	\$ 650.00	\$ 650.00		\$ -		\$ -		\$ -
102	CONSTRUCT TEMPORARY WATERMAIN & SERVICES	LF	1850	\$ 6.75	\$ 12,487.50	3141	\$ 21,201.75	3141	\$ 21,201.75		\$ -

ITEM NO.	DESCRIPTION	UNIT	ORIGINAL BID			COMPLETED					
			Quantity	Unit Price	Amount	Total To Date		Previous Payments		This Pay Period	
			Quantity	Unit Price	Amount	Quantity	Amount	Quantity	Amount	Pay Estimate #3 Quantity	Amount
103	CURB STOP EXTRA DEPTH	LF	1	\$ 415.00	\$ 415.00		\$ -		\$ -		\$ -
104	1" TYPE K COPPER W/FITTINGS	LF	300	\$ 54.00	\$ 16,200.00		\$ -		\$ -		\$ -
105	2" HDPE (CTS) WATER SERVICE	LF	38	\$ 75.00	\$ 2,850.00		\$ -		\$ -		\$ -
106	6" C-900 PVC W/FITTINGS	LF	1460	\$ 56.00	\$ 81,760.00	841	\$ 47,096.00	523	\$ 29,288.00	318	\$ 17,808.00
107	6" DIP W/FITTINGS	LF	70	\$ 120.00	\$ 8,400.00	130	\$ 15,600.00	130	\$ 15,600.00		\$ -
108	8" C-900 PVC W/FITTINGS	LF	2940	\$ 65.00	\$ 191,100.00	2940	\$ 191,100.00	2940	\$ 191,100.00		\$ -
109	12" C-900 PVC W/FITTINGS	LF	92	\$ 180.00	\$ 16,560.00	83	\$ 14,940.00	83	\$ 14,940.00		\$ -
110	2" INSULATION 4'X8' SHEET	SY	15	\$ 38.00	\$ 570.00		\$ -		\$ -		\$ -
111	REMOVE ORNAMENTAL METAL RAILING	LF	116	\$ 37.00	\$ 4,292.00		\$ -		\$ -		\$ -
112	REMOVE CONCRETE APPROACH PANELS	SF	180	\$ 48.00	\$ 8,640.00		\$ -		\$ -		\$ -
113	REMOVE CONCRETE SIDEWALK	SF	220	\$ 8.00	\$ 1,760.00		\$ -		\$ -		\$ -
114	SIDEWALK CONCRETE (3S52)	SF	878	\$ 59.00	\$ 51,802.00		\$ -		\$ -		\$ -
115	REINFORCEMENT BARS (EPOXY COATED)	LB	3315	\$ 3.15	\$ 10,442.25		\$ -		\$ -		\$ -
116	BRIDGE APPROACH PANELS	SY	45	\$ 800.00	\$ 36,000.00		\$ -		\$ -		\$ -
117	REMOVE CONCRETE BRIDGE DECK	SF	6	\$ 210.00	\$ 1,260.00		\$ -		\$ -		\$ -
118	REMOVE CONCRETE BRIDGE SIDEWALK	LF	115	\$ 28.00	\$ 3,220.00		\$ -		\$ -		\$ -
119	ANCHORAGES TYPE REINF BARS	EA	254	\$ 48.00	\$ 12,192.00		\$ -		\$ -		\$ -
120	RECONSTRUCT EXPANSION JOINT TYPE B	LF	7	\$ 1,575.00	\$ 11,025.00		\$ -		\$ -		\$ -
121	CONCRETE SURFACE REPAIR, TYPE 2	SF	6	\$ 210.00	\$ 1,260.00		\$ -		\$ -		\$ -
122	WIRE FENCE, DESIGN S-1 (VINYL COATED)	LF	111	\$ 260.00	\$ 28,860.00		\$ -		\$ -		\$ -

SUBTOTALS:	\$ 3,368,721.25	\$1,654,360.05	\$1,075,419.95	\$578,940.10
	ORIGINAL BID	TOTAL TO DATE	PREVIOUS PAYMENTS	CURRENT PERIOD

PROJECTS:

2023-1 Neighborhood Infrastructure Improvements

This Period	Total to Date
\$578,940.10	\$1,654,360.05

**CITY OF HASTINGS
2023 Neighborhood Infrastructure Improvements
Payment Summary**

VIII-08

Pay Estimate Number	Period	Retainage	Payment
1	5/1/2023 - 5/31/2023		\$412,385.00
2	6/1/2023 - 6/30/2023		\$663,034.95
3 (Current)	7/1/2023 - 7/31/2023		\$578,940.10
TOTALS TO DATE:			\$1,654,360.05

Total Completed to Date:	\$1,654,360.05
Less Retainage:	
Less Previous Payment:	\$1,075,419.95
Total Amount Due:	\$578,940.10

Application for Payment Number: 3

Contractor: BCM Construction Inc.

Aaron Miller

Digitally signed by Aaron Miller
DN: c=US, e=aamiller@bcmgrading.com,
cn=Aaron Miller
Date: 2023.08.14 10:16:19-0500'

Contractor

8/14/23

Date

Engineer



8/14/23

Date

Approved by Owner

Date



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Dan Wietecha, City Administrator
Date: August 21, 2023
Item: 2024-2026 Local 49ers Union Contract

Council Action Requested:

Approve the 2024-2026 union contract for Local 49ers.

Background Information:

It is recommended that the Council approve the 2024-2026 collective bargaining agreement for the Local 49er's union. The contract term is for January 1, 2024 – December 31, 2026.

Proposed changes include:

- 4.0% cost of living adjustment on January 1, 2024, and 3.5% on January 1, 2025 and January 1, 2026.
- Increase Stand-by pay by \$5.00.
- Note that employer will cover costs of required training.
- Adjust maximum vacation accrual amount.
- Incorporate wage study and city policy update MOU language into contract.
- Renewal of Memorandum of Understanding for Commercial Driver's License.
- Renewal of Memorandum of Understanding for Alternative Work Week.

All other provisions of the contract will remain unchanged.

Financial Impact:

Wage adjustments and stand-by pay are included in the 2024 budget.

Advisory Commission Discussion:

N/A

Council Committee Discussion:

N/A

Attachments:

International Union of Operating Engineers Local No. 49 Collective Bargaining Agreement

LABOR AGREEMENT

Between

CITY OF HASTINGS

And

**INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL No. 49**



Effective January 1, 2024 through December 31, 2026

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LABOR AGREEMENT
Between
THE CITY OF HASTINGS
And
INTERNATIONAL UNION OF OPERATING ENGINEERS
LOCAL No. 49

Article I – Purpose of Agreement

This Agreement is entered into between the City of Hastings hereinafter called EMPLOYER, and Local No. 49, International Union of Operating Engineers hereinafter called the UNION. The intent and purpose of this AGREEMENT is to:

- 1.1 Establish certain hours, wages and other conditions of Employment;
- 1.2 Establish procedures for the resolution of disputes concerning this AGREEMENT’S interpretation and/or application;
- 1.3 Specify the full and complete understanding of the parties; and
- 1.4 Place in written form the parties’ agreement upon terms and conditions of employment for the duration of this AGREEMENT.

The EMPLOYER and the UNION, through this AGREEMENT, continue their dedication to the highest quality of public service. Both parties recognize this AGREEMENT as a pledge of this dedication.

Article II - Recognition

The EMPLOYER recognizes the UNION as the exclusive representative for all employees of the City of Hastings Public Works, Parks, TRAC, and Facilities Maintenance departments who are public employees within the meaning of Minnesota Statute, 179A.03, Subd. 14, excluding clerical, supervisory, and confidential employees.

Article III – Union Security

In recognition of the UNION as the exclusive representative, the EMPLOYER shall:

- 3.1 Request for Dues Checkoff—The Employer agrees that it will make deductions from each paycheck covering membership dues and initiation fees that may hereafter become due to the union for any of the employees covered under this agreement; provided the Union requests such deductions and accompany such requests with properly and legally executed assignments authorizing such deductions in accordance with applicable law. The Union will inform the Employer as to the amount of membership dues and initiation fees. Initiation fees, dues, other assessments or Fair Share Fee in accordance with M.S. 179.55, Subd. 2 shall commence no later than 31 days from the date of employment.
- 3.2 Remit such deduction to the appropriate designated officer of the UNION.

- 3.3 The UNION may designate certain employees from the bargaining unit to act as stewards and shall inform the EMPLOYER in writing of such choice.
- 3.4 The UNION agrees to indemnify and hold the EMPLOYER harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

Article IV – Employer Security

- 4.1 The UNION agrees that during the life of this AGREEMENT it will not cause, encourage, participate in or support any strike, slow down or any other interruption of or interference with the normal functions of the EMPLOYER.
- 4.2 Any employee who engages in a strike may have their appointment terminated by the EMPLOYER effective the date the violation first occurs. Such termination shall be effective upon written notice served upon the employee.
- 4.3 An employee who is absent from any portion of their work assignment without permission, or who abstains wholly or in part from the full performance of their duties without permission from their EMPLOYER on the date or dates when a strike occurs is prima fascia presumed to have engaged in a strike on such date or dates.
- 4.4 An employee who knowingly strikes and whose employment has been terminated for such action may, subsequent to such violation, be appointed or reappointed or employed or reemployed, but the employee shall be on probation for two (2) years with respect to such civil service status, tenure of employment, or contract of employment, as they may have theretofore been entitled.
- 4.5 No employee shall be entitled to any daily pay, wages, or per diem for the days on which he (she) engaged in a strike.

Article V – Employer Authority

- 5.1 The EMPLOYER retains the full and unrestricted right to operate and manage all manpower, facilities, and equipment; to establish functions and programs; to set and amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct, and determine the number of personnel; to establish work schedules, to perform any inherent managerial function not specifically limited by this AGREEMENT.
- 5.2 Any term and condition of employment not specifically established or modified by this AGREEMENT shall remain solely within the discretion of the EMPLOYER to modify, establish, or eliminate.

Article VI – Employee Rights—Grievance Procedure

- 6.1 **Definition of a Grievance**—A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms and conditions of this AGREEMENT.
- 6.2 **Union Representatives**—The EMPLOYER will recognize representatives designated by the UNION as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The UNION shall notify the EMPLOYER in writing of the names of such UNION representatives and of their successors when so designated.
- 6.3 **Processing of a Grievance**—It is recognized and accepted by the UNION and the EMPLOYER that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the EMPLOYEES and shall therefore be accomplished during normal working hours only when consistent with such EMPLOYEE duties and responsibilities. The aggrieved EMPLOYEE and the UNION REPRESENTATIVE shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the EMPLOYER during normal working hours provided the EMPLOYEE and the UNION REPRESENTATIVE have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the EMPLOYER.
- 6.4 **Procedure**—Grievances, as defined by Section 6.1 shall be resolved in conformance with the following procedures:

Step 1. An EMPLOYEE claiming a violation concerning the interpretation or application of this AGREEMENT shall, within ten (10) calendar days after such alleged violation has occurred, present such grievance to the EMPLOYEE'S supervisor as designated by the EMPLOYER. The EMPLOYER designated representative will discuss and give an answer to such Step 1 grievance within five (5) calendar days after receipt. A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the AGREEMENT allegedly violated, and the remedy requested and shall be appealed to Step 2 within five (5) calendar days after the EMPLOYER designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the UNION within five (5) calendar days shall be considered waived.

Step 2. If appealed, the written grievance shall be presented by the UNION and discussed with the EMPLOYER designated Step 2 representative. The EMPLOYER designated representative shall give the UNION the EMPLOYER'S Step 2 answer in writing

within five (5) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within five (5) calendar days following the EMPLOYER designated representative's final answer in Step 2. Any grievance not appealed in writing to Step 3 by the UNION within five (5) calendar days shall be considered waived.

Step 3. If appealed, the written grievance shall be presented by the UNION and discussed with the EMPLOYER designated Step 3 representative. The EMPLOYER designated representative shall give the UNION the EMPLOYER'S answer in writing within five (5) calendar days after receipt of such Step 3 grievance. A grievance not resolved in Step 3 may be appealed to Step 4 within five (5) calendar days following the EMPLOYER designated representative's final answer in Step 3. Any grievance not appealed in writing to Step 4 by the UNION within five (5) calendar days shall be considered waived.

Step 4. If the grievance is still unsettled, the UNION may within ten (10) calendar days after the reply of the Step 3 Representative was due, by written notice to the EMPLOYER, petition the Bureau of Mediation Services for assistance in settling through mediation. If either party determines during the mediation process that further mediation would serve no purpose, the UNION within ten (10) calendar days by written notice to the EMPLOYER, may request arbitration of the dispute.

Step 5. A grievance unresolved in Step 4 and appealed to Step 5 shall be submitted to arbitration subject to the provisions of the Public Employment Labor Relations Act of 1971. The selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances" as established by the Public Employment Relations Board.

6.5 **Arbitrator's Authority**

- A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this AGREEMENT. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the EMPLOYER and the UNION, and shall have no authority to make a decision on any other issue not so submitted.
- B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days

following close of the hearing or the submission of briefs by the parties, whichever be later, unless the parties agree to an extension. The decision shall be binding on both the EMPLOYER and the UNION and shall be based solely on the arbitrator's interpretation or application of the express terms of this AGREEMENT and to the facts of the grievance presented.

- C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the EMPLOYER and UNION provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings the cost shall be shared equally.

- 6.6 **Waiver**—If a grievance is not presented within the time limits set forth above, it shall be considered "waived." If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the EMPLOYER'S last answer.

If the EMPLOYER does not answer a grievance or an appeal thereof within the specified time limits, the UNION may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the EMPLOYER and the UNION.

6.7 **Choice of Remedy**

If, as a result of the written EMPLOYER response in Step 4, the grievance remains unresolved, and if the grievance involves the suspension, demotion, or discharge of an employee who has completed the required probationary period, the grievance may be appealed either to Step 5 of ARTICLE V or a procedure such as: Civil Service, Veteran's Preference, or Fair Employment.

If appealed to any procedure other than Step 5 of ARTICLE V the grievance is not subject to the arbitration procedure as provided in Step 5 of ARTICLE V.

The aggrieved employee shall indicate in writing which procedure is to be utilized - Step 5 of ARTICLE VI or another appeal procedure, and shall sign a statement to the effect that the choice of any other hearing precludes the aggrieved employee from making a subsequent appeal through Step 5 of ARTICLE VI.

Article VII - Definitions

7.1 **Union:** The International Union of Operating Engineers, Local No. 49,.

7.2 **Employer:** The individual municipality designated by this AGREEMENT.

- 7.3 **Union Member:** A member of the International Union of Operating Engineers, Local No. 49.
- 7.4 **Employee:** A member of the exclusively recognized bargaining unit.
- 7.5 **Base Pay Rate:** The employee's hourly pay rate exclusive of longevity or any other special allowances.
- 7.6 **Seniority:** Length of continuous service with the EMPLOYER.
- 7.7 **Severance Pay:** Payment made to an employee upon honorable termination of employment.
- 7.8 **Strike:** Concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work, slowdown, or abstinence in whole or in part from the full, faithful and proper performance of duties of employment for the purposes of inducing, influencing or coercing a change in the conditions or compensation or the rights, privileges or obligations of employment.

Article VIII – Savings Clause

This AGREEMENT is subject to the laws of the United States, the State of Minnesota, and the signed municipality. In the event any provision of this AGREEMENT shall be held to be contrary to law by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision shall be voided. All other provisions of this AGREEMENT shall continue in full force and effect. The voided provision may be renegotiated at the request of either party.

Article IX – Work Schedules, Overtime/Compensatory Time

9.1 Work Schedules

- A. The sole authority in work schedules is the EMPLOYER. The normal workday for an employee shall be eight (8) hours. The normal workweek shall be forty (40) hours, Monday through Friday.
- B. Service to the public may require the establishment of regular shifts for some employees on a daily, weekly, seasonal, or annual basis other than the normal 7:00 a.m. - 3:00 p.m. day.
- C. Service to the public may require the establishment of regular workweeks that schedule work on Saturdays and/or Sundays.
- D. In order that emergency work is done effectively and safely, the EMPLOYER reserves the right to work with different departments for backup purposes, such as snow removal; flood conditions, tree damage, etc. The EMPLOYER agrees to pay higher hourly rates when appropriate. All extra time shall be overtime and not compensatory time. In the case of snow removal, a minimum training period shall be 8 hours whereby backup personnel will be trained by Street Department personnel. It is also not the intent to take overtime from one group to give to another.

9.2 Work Schedule Changes

1. The EMPLOYER will give seventy-two (72) hour advance notice to the employees affected by the establishment of work days different from the employee's normal eight (8) hour work day.
2. In the event that work is required because of unusual circumstances such as (but not limited to) fire, flood, snow, sleet, or breakdown of municipal equipment or facilities, no advance notice need be given.
3. **Winter Season Snow or Ice Removal**—During the period of November 15 to March 15, if work is required because of snow or ice removal, the employee may be required to report early with no advance notice given. Snow removal on Saturday will be paid at the overtime rate. (this provision shall be effective December 31, 2010)
4. The employer shall provide the employees with the opportunity to work an additional two hours of overtime, and each employee has an obligation to work overtime if requested, unless unusual circumstances prevent them from so working. In cases where an employee reports early to remove snow or ice and subsequently works overtime during that same shift, the first hour of overtime worked shall be taken as pay. If an employee is required to work more than one hour of overtime that same day, those additional hours may be taken as either compensatory time or overtime pay.
5. In situations where additional hours outside the normal work are prescheduled, employees will be allowed to switch shifts with other qualified employees, provided the switch does no result in any additional premium and/or overtime pay.

9.3 Overtime Pay [Except for Shift Changes]

- A. **Overtime:** Work performed at the express authorization of the EMPLOYER in excess of either eight (8) hours within a twenty-four (24) hour period (except for shift changes) or more than forty (40) hours within a seven (7) day period.
- B. It is not required that an employee working other than the normal work day be scheduled to work more than eight (8) hours; however, each employee has an obligation to work overtime or call backs if requested unless unusual circumstances prevent them from so working.
Scheduled overtime such as work by the utilities personnel will not be included in this one and one-half (1-½) times rate of pay provision.
- C. Overtime will be distributed as equally as practicable.
- D. Overtime refused by employees will be considered as unpaid overtime worked for record purposes
- E. For the purpose of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- F. Work on Sundays, which is unscheduled (callout), shall be paid at the one and one-half (1 ½) times rate of pay. Specifically, this will refer to any time that is unanticipated such as water main breaks, snow removal, and storm damage. Scheduled overtime such as work by the utilities personnel will not be included in this one and one-half (1 ½) times rate of pay provision.

9.4 Compensatory Time

1. Hours worked in excess of eight hours in one day and 40 hours in a week may be paid as overtime at 1 ½ times the employee's hourly rate of pay or be banked as compensatory time earned at 1 ½ times the number of excess hours worked.
2. Compensatory time off may be accrued to a maximum of eighty hours, which will be paid out to the employee at time of separation of employment.
3. The employee must request use of compensatory time off in the same manner as they request vacation.
4. Compensatory time off that has been approved will be done so on a seniority basis.

9.5 Shift Differential

1. For Park Department employees only, all hours worked between the hours of 6:00 p.m. to 6:00 a.m. shall receive fifty cents (\$.50) per hour shift differential in addition to their regular straight time hourly rate.
2. The employees shall not collect both time and one-half (1-½) and shift differential for the same hours.

9.6 Call Back

1. A call back is when an employee is required to return to work other than their normal scheduled shift. If called back, the employee will be compensated for a minimum of two (2) hours pay at one and one-half (1½) times the employee's base pay rate.

Article X - Holidays

The EMPLOYER will provide the employees thirteen (13) paid holidays to be as follows:

- | | |
|-----------------------------|--------------------------------------|
| • New Year's Day | January 1 |
| • Martin Luther King Day | 3 rd Monday in January |
| • Presidents Day | 3 rd Monday in February |
| • Memorial Day | Last Monday in May |
| • Juneteenth | June 19 |
| • Independence Day | July 4 |
| • Labor Day | 1 st Monday in September |
| • Veteran's Day | November 11 |
| • Thanksgiving Day | 4 th Thursday in November |
| • Day After Thanksgiving | |
| • Christmas Day | December 25 |
| • Two (2) Floating Holidays | |

- 10.1 When a holiday falls on a Sunday, the following Monday shall be celebrated as the holiday. When a holiday falls on a Saturday, the preceding Friday shall be celebrated as the holiday.
- 10.2 Any premium pay for hours worked for holiday pay shall be based on the actual holiday, rather than the observed holiday.
- 10.3 All hours worked on actual holidays shall be paid in cash at the rate of one and one-half (1½) times the straight time rate of pay. On Christmas, New Year's, 4th of July, Thanksgiving, and the Friday after Thanksgiving, the employee shall receive double time (2x) the rate of pay.

Article XI – Wage Rates and Incentives

11.1 Classification

	Jan. 1, 2024	Jan. 1, 2025	Jan. 1, 2026
Electrician			
HEO/Mechanic	\$39.45	\$40.83	\$42.26
HEO	\$37.13	\$38.43	\$39.77
LEO	\$36.99	\$38.29	\$39.63
Maintenance III	\$36.32	\$37.59	\$38.90
Parkkeeper/Forester	\$40.91	\$42.35	\$43.83
Parkkeeper II	\$36.63	\$37.91	\$39.24
Parkkeeper I/Arena			
Senior Eng. Tech.			
Eng. Aide II	\$46.01	\$47.62	\$49.29
Eng Aide I			
PT Building Services	\$31.12	\$32.21	\$33.33

Notes:

***Parkkeeper I working without a Supervisor at the Civic Arena, during Arena operation months only, will receive the Parkkeeper/Assistant Arena Manager wage:

Monthly wages for new employees:

Start	70%	
After 12 Months	80%	of Parkkeeper I and L.E.O.,
After 24 Months	90%	Engineering Aide I, Parkkeeper/Assistant

After 36 Months 100% Arena Manager, Part-time Building Services Worker whichever department employee is hired.

11.2 Public Works Operator Wages

	January 1, 2024	January 1, 2025	January 1, 2026
Step 1(minimum)	\$30.77	\$31.85	\$32.97
Step 2	\$32.47	\$33.61	\$34.78
Step 3	\$34.53	\$35.74	\$36.99
Step 4**	\$ 36.76	\$38.05	\$39.38
Step 5	\$ 38.23	\$39.57	\$40.95
Step 6	\$39.62	\$41.01	\$42.45

**Not eligible for license incentive pay

All new employees will be hired as a Public Works Operator. The City agrees to meet with the union to discuss creation of a step program for Parks Operators and Engineering Technician positions.

Current employees have the option, at any time, to move to the Public Works Operator position, at the appropriate step, once requirements for that step have been met. The City will pay for training and testing one time per license. Employees shall not be denied advancement because of non-funding to receive license or school reimbursement.

11.3 Senior Operator Wages

	January 1, 2024	January 1, 2025	January 1, 2026
Start:	\$40.71	\$42.13	\$43.60
6 months:	\$44.02	\$45.56	\$47.16
12 months	\$47.37	\$49.03	\$50.75
24 months	\$50.70	\$52.47	\$54.31

The preceding wage schedules shall not constrain the Employer from hiring an employee at any step in the schedule.

Out of Class Pay—Any employee working above their classification shall be paid the rate of the classification. Said employee shall accumulate 8 hours before payment shall be made for the higher classification. The minimum of Class D License shall be required for all Maintenance I and Maintenance II workers, except for those employees employed as of January 1, 1985.

Incentive Pay—Incentive increases for Water and Sewer personnel after voluntary State Certification shall be automatic.

Class D Waterworks Operator - \$30.00 per month

Class C Waterworks Operator - \$40.00 per month
Class B Waterworks Operator - \$65.00 per month

All CS Wastewater Licenses to be paid at a rate of \$10.00 per month when in an addition to any Waterworks Operators License and up to \$20.00 per month when it is held singularly.

DOT Inspection License - \$30.00/month for up to two (2) staff

Playground Inspection Certification - \$18.00 per month

11.4 **License Fees**—The City will pay for the additional, incremental cost above the regular license renewal fee for any required Water, Wastewater or Commercial Driver’s License (CDL) renewal. The City will also pay the costs associated with acquiring required Water, Wastewater, Commercial Driver’s Licenses, and the license examination fee. Employees will be required to reimburse the City for the cost of said required water, wastewater and/or CDL licenses in the event they leave the City within twelve (12) months of acquiring or renewing the license.

11.5 **Longevity Pay**—Longevity shall be payable as follows:

After 5 years employment	1% monthly base pay
After 10 years employment	2% monthly base pay
After 15 years employment	3% monthly base pay
After 20 years employment	4% monthly base pay

11.6 **Lead Operator Pay**

Effective June 1, 2006, a Lead Operator may be appointed at the discretion of the Parks and Recreation Director or Parks Superintendent, to serve as a temporary supervisor, assigning duties and managing daily activities and reporting to the Parks and Recreation Director or Parks Superintendent. The Lead Operator shall be compensated \$2.00 per hour above the existing Park Keeper/Forester position.

The lead operator rotating position in Public Works will be eliminated and replaced with a regular, full-time Senior Operator position.

11.7 **Stand by Pay**

Monday – Thursday	\$60.00/day
Friday	\$85.00/day
Saturday, Sunday &	\$90.00/day
Holidays (as defined in Article X)	

Article XII – Legal Defense

- 12.1 Employees involved in litigation because of negligence, ignorance of Laws, non-observance of Laws, or as a result of employee judgmental decision may not receive legal defense by the municipality.
- 12.2 Any employee who is charged with a traffic violation, ordinance violation, or criminal offense arising from acts performed within the scope of his/her employment, when such act is performed in good faith and direct order of his/her supervisor, shall be reimbursed for reasonable attorney's fees and court costs actually incurred by such employee in defending against such charge.

Article XIII – Right of Subcontract

Nothing in this AGREEMENT shall prohibit or restrict the right of the EMPLOYER from subcontracting work performed by employees covered by this AGREEMENT.

Article XIV - Discipline

The EMPLOYER will discipline employees only for just cause.

Article XV - Seniority

Seniority will be the determining criterion for transfers, promotions, layoffs, and recalls only when all other qualification factors are equal.

- 15.1 The EMPLOYER shall issue notice of layoff or recall from layoff to the Union and affected permanent employees, in writing, to the last known address of any such employees as shown by the EMPLOYER'S records, at least fourteen (14) calendar days in advance of the effective date of the layoff or recall from layoff.
- 15.2 Laid off employees may be recalled from layoff on the basis of seniority for a period of up to one year. Employees who are offered their former position and refuse it shall be considered resigned. Laid off employees for a period of longer than one year shall be considered dismissed.

Article XVI – Probationary Periods

- 16.1 All newly hired or rehired employees will serve a twelve (12) month probationary period at the negotiated contract rate.
- 16.2 All employees will serve a twelve (12) month probationary period in any job classification in which the employee has not served a probationary period.
- 16.3 At any time during the probationary period a newly hired or rehired employee may be terminated at the sole discretion of the EMPLOYER.
- 16.4 At any time during the probationary period a promoted or reassigned employee may be demoted or reassigned to the employee's previous position at the sole discretion of the EMPLOYER.

Article XVII – Safety and Clothing Allowance

- 17.1 The EMPLOYER and the UNION agree to jointly promote safe and healthful working conditions, to cooperate in safety matters and to encourage employees to work in a safe manner. The Employer will cover the cost of all required training.
- 17.2 The City will provide each employee an annual clothing allowance which will allow employees to purchase jackets, bibs, t-shirts, Polos, sweat shirts, winter hats, gloves and jeans.
- 17.3 The City will provide a standard work glove. If the employee prefers an alternative glove it will be paid for out of their clothing allowance.
- 17.4 Employees shall not be eligible for safety equipment or uniform clothing reimbursement during the 30 period prior to voluntary separation of employment.

Clothing Allowance: \$335.00 per year

- 17.5 Employees will be required to be in uniform each workday, with the uniforms in good condition, free from tears, rips or fraying, including lettering that distinguishes the employee as working for the City of Hastings.

Article XVIII – Job Posting

- 18.1 The EMPLOYER and the UNION agree that permanent job vacancies within the designated bargaining unit shall be filled based on the concept of promotion and/or transfers from within provided that applicants:
- Have the necessary qualifications to meet the standards of the job vacancy; and
 - Have the ability to perform the duties and responsibilities of the job vacancy.
- 18.2 Employees filling a higher job class based on the provisions of this ARTICLE shall be subject to the conditions of ARTICLE XVI [PROBATIONARY PERIODS].
- 18.3 The Employer has the right to consider an internal candidate's disciplinary and/or performance record when considering transfer and promotions.
- 18.4 Job vacancies within the designated bargaining unit shall first be posted internally for five (5) working days so that members of the bargaining unit can be considered for such vacancies prior to posting externally.

Article XIX - Insurances

- 19.1 **Eligibility**
To be eligible for health, life, long-term disability, or other insurance coverage offered and paid by the EMPLOYER, an employee must be a regular full-time employee who is regularly scheduled for a minimum of thirty (30) hours per week.
- Regular, union part-time employees are not eligible for insurance benefits for which the City contributes a part or all of the monthly premium. Regular, union part-time employees are eligible to participate in the group insurance policies that are offered by the City of Hastings where there is no City contribution to the premium.
- 19.2 **Health Insurance**
The City will agree to pay the cost of single health insurance coverage, if such coverage is elected by the employee. Eligible employees may not waive single coverage.
- The City will agree to contribute a percentage of premium as established by the City Council, towards coverage other than single as offered by the City and elected by the Employee. The City will contribute 70% towards the premium of family plans and 65% towards the premium of employee plus spouse and employee plus child(ren) plans. Employees will be responsible for paying the remaining percentage of the premium, which will be done through payroll deduction.
- 19.3 **Life Insurance**
All regular full-time employees will receive a \$50,000 Life Insurance Policy with the full cost of the basic life premium to be paid by the EMPLOYER. Employees may elect additional life insurance coverage at their own cost.
- 19.4 **Long-Term Disability**
All regular full-time employees will receive a long-term disability insurance policy. The City will pay for long-term disability premiums.
- 19.5 **Dental Insurance**
All regular, full-and part-time employees may participate in the EMPLOYER'S dental insurance program at their own cost.
- 19.6 **Insurance Committee**
The EMPLOYER shall establish an Insurance Committee to review the insurance policy in the event of a carrier or policy change. Members of the bargaining unit are eligible to participate in the Insurance Committee.
- 19.7 **Post-Retirement Health Insurance Coverage**

The EMPLOYER shall provide paid health insurance for employees and their dependents, for those employees until they reach the age of 65 years or the qualifying age of Medicare, whichever is less, who meet the following qualification requirements.

- A) Hired prior to January 1, 1993
- B) Retirement from the department after at least ten (10) years
- C) Is at least 55 years of age or PERA qualifying age.
- D) Have provided a minimum of four (4) months prior written notification of their intent to retire; and
- E) Are enrolled for family health insurance coverage for a minimum of six (6) months prior to the planned date of retirement. In the event an eligible retiree does not enroll in family health coverage six (6) months prior to their retirement day, the City will only pay the premium for single coverage. Should the employee wish to maintain family coverage, the retiree is responsible for the timely payment of the difference between the single and family monthly premium. The City will pay the premium of the plan to which the employee is enrolled in at six months prior to the planned date of retirement.

Regular full-time employees hired after December 31, 1992 are not eligible for the paid early retirement health insurance benefits. Employees hired after January 1, 1993, who are retiring, may remain on the City's group health insurance indefinitely, at their own expense. The employee shall pay the City in advance on a monthly basis for the cost. The City will then remit payment to the insurance company. When the former employee reaches age 65, the City may transfer the former employee and covered dependents to a non-active employee pool. This indefinite continuation is made available under Minnesota Statute §471.61, which is also known as Chapter 488.

Article XX – Lunch Period and Rest Breaks

Covered employees have agreed to use their two, paid 15-minute rest breaks in a 30-minute block of time. Covered employees have also agreed to take their 30-minute, unpaid lunch break at the end of their shift.

Article XXI – Vacation

21.1 The employees shall be granted the following vacation schedule:

<u>Years of Service</u>	<u>Hours Vacation</u>
0-1	48
2	96
3	104
4	112
5	120
6-7	128
8-9	136
10-11	144
12	152
13	160
14	168
15	176
20 or more	200

21.2 All vacation pay shall be accrued. Maximum carry-over provisions for vacation are as follows:

0 - 5 years of employment	120 hours maximum
6 - 10 years of employment	210 hours maximum
11+ years of employment	300 hours maximum

In the event an employee's employment is terminated for any reason, the employee shall receive upon their termination the vacation pay to which the employee is entitled at the time on a prorated basis. No more than four consecutive weeks of vacation can be taken at any one time. All vacations, in excess of three (3) days, must be arranged at least thirty (30) days in advance, and the times of such vacation shall be subject to the approval of the department head.

21.3 In computing vacation pay, length of service shall be figured from the anniversary date of the employee.

21.4 Additional vacation can be accrued per ARTICLE 22.1-Sick Leave

Article XXII – Sick Leave and Other Leaves of Absence

22.1 Sick Leave

All employees of the EMPLOYER shall be entitled to accumulate one day of sick leave for each month of employment. The maximum accumulation of sick leave is one hundred twenty (120) days. Employees shall bank an additional one-half (½) day per month of sick leave after the accumulation of the 120 days to be used only in cases of very prolonged illnesses. Employees shall also accrue an additional one-half (½) day per month of vacation leave after the accumulation of the 120 days sick leave mentioned above. The one-half (½) day vacation shall be

added to the current accumulation of vacation leave. Sick leave may be used for mental or physical illness, injury or other health condition, or the treatment, diagnosis, care or preventative care, of the employee or family member as defined in Minn. Stat. § 181.945. Sick leave may also be used due to the domestic abuse, sexual assault or stalking of the employee or family member. Employees may use sick leave due to communicable disease or public emergency as set forth by statute. The Employer may require verification of the use of sick leave when an employee has been absent for three consecutive days. Verification shall be consistent with the requirements of state law.

22.2 **Personal Leave**

All full time employees of the EMPLOYER shall be entitled to 40 hours personal leave per occurrence. Personal leave for purposes of this paragraph includes and is limited to death in the immediate family. Immediate family is defined as the employee's spouse, parent, child(ren)/step/foster, brother/sister, sister/brother-in-law, mother/father-in-law, grandparents/spouse's grandparents, grandchildren, step-parents, legal guardians. Part-time employees are eligible for up to 20 hours per occurrence.

Article XXIII – Severance Pay

If an employee, after ten (10) years of service:

- Retires at age 65 (or otherwise provided by law); or
- Is forced to retire due a physical condition, including death, not allowing him/her the employee to continue gainful employment; or
- Voluntarily terminates employment with the City after due notice, with the consent of the City but not if discharged or resigns by the request of the City, they or their descendants will receive fifty percent (50%) of unused sick leave. Employees will be allowed to draw from both the sick leave and extended sick leave banks as severance pay, up to a maximum severance payout of 640 hours.

Under no circumstances will an employee receive more than 640 hours as a severance payout.

Article XXIV – Leave of Absence

24.1 Employees subpoenaed as witnesses or called and selected for jury duty, when such time served will coincide with any regularly scheduled work period(s) shall receive their regular compensation and other benefits for their employment with the EMPLOYER less the witness stipend received for each time served.

24.2 The UNION stewards may be present during discussions regarding problems involving employees when their presence has been requested by the employee.

- 24.3 The EMPLOYER agrees to grant necessary time off without pay to any employee designated by the UNION to attend a labor convention or to serve in any other official UNION capacity.

Article XXV - Waiver

- 25.1 Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with the provisions of this AGREEMENT, are hereby superseded.
- 25.2 The parties mutually acknowledge that during the negotiations that resulted in this AGREEMENT, each had the unlimited right and opportunity to make demands and proposals with respect to any term or condition of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in writing in this AGREEMENT for the stipulated duration of this AGREEMENT. The EMPLOYER and the UNION each voluntarily and unqualifiedly waive the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this AGREEMENT or with respect to any term or condition of employment not specifically referred to or covered by this AGREEMENT, even though such terms or conditions may not have been within the knowledge or contemplation of either or both parties at the time this contract was negotiated or executed.

Article XXVI – Injured on Duty

- 26.1 Employees injured while on duty will receive full pay for a maximum of thirty (30) working days while unable to work due to such injury. The first seven (7) working days lost due to an injury on duty will be charged to the employee's sick leave account. An employee with no sick leave accumulated will not receive payment for the first seven (7) working days lost.
- 26.2 Any compensation payable to the employee under Workers' Compensation insurance will be reported to the EMPLOYER. The EMPLOYER shall make supplementary payments to the employee (not to be charged to the employee's accumulated sick leave) to make up the difference between Workmen's Compensation and their normal rate of pay.
- 26.3 Any employee who claims an absence from work due to an injury sustained on the job shall provide if requested by the EMPLOYER a statement from the employee's attending physician as to the nature of the injury.
- 26.4 Any employee who claims an absence from work due to an injury sustained on the job is subject to an examination to be made in behalf of and paid for by the EMPLOYER by a person competent to perform the same and as is designated by the EMPLOYER.

Article XXVII – Drug Testing Policy/Drug Free Workplace

- 27.1 The EMPLOYER and the UNION agree to continue the Drug Testing Program for those employees required to possess a valid Commercial Driver’s License as required by federal and state drug testing regulations.
- 27.2 All employees will maintain a drug free workplace in accordance with the Drug Free Workplace Policy for the City of Hastings’ employees.

Article XXVIII - Duration

This AGREEMENT shall be effective as of January 1, 2024 and shall remain in full force and effect until December 31, 2026.

Article XXIX – Seasonal Temporary Employees:

Public Employees covered under this AGREEMENT who are hired on a seasonal or temporary basis for 180 days per calendar year or less, are not eligible for any benefits of the LABOR AGREEMENT. No seasonal or temporary employees shall operate any equipment requiring a Commercial Driver’s License or any heavy equipment.

No seasonal employees will be hired while any bargaining unit members are in layoff status. Seasonal employees will not be paid more than 60% of the lowest base union compensation rate.

Approved by the Hastings City Council:
Date: _____

Approved by the IUOE Local No. 49
Date: 8-4-2023

FOR THE CITY OF HASTINGS:

Mary Fasbender, Mayor

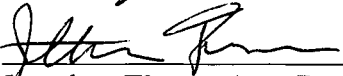
Dan Wietecha, City Administrator

Kelly Murtaugh, City Clerk

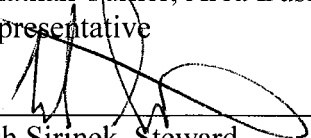
**FOR THE INTERNATIONAL UNION
OF OPERATING ENGINEERS, VIII-09
LOCAL No. 49:**



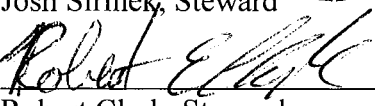
Jason George, Business Manager



Jonathan Turner, Area Business
Representative



Josh Sirinek, Steward



Robert Clark, Steward



Tim Tessier, Steward

CITY OF HASTINGS AND I.U.O.E., LOCAL No. 49
Memorandum of Understanding: Commercial Driver's License

VIII-09

The purpose of this Memorandum of Understanding is to assist both Labor and Management in dealing with Commercial Driver's License (CDL) rules and the pending changes to those rules.

The following conditions will apply to employees in the Local 49 Bargaining Unit.

- A. If an employee temporarily loses his/her driver's license and CDL, the Employer may choose, on a case-by-case basis, to accommodate the employee by assigning him/her to duties that do not require a driver's license/CDL, not to exceed twelve (12) months during the employee's tenure with the City, and/or not to exceed two (2) revocations as a result of driving violations.
- B. If the temporary loss of a driver's license is the result of an alcohol-related offense, the employee will be required to comply with the recommendations of a licensed Substance Abuse Professional. Proof of compliance with the Substance Abuse Professional recommendations will be provided to the Employer before an employee will be permitted to return to work.
- C. The application of this agreement will begin for an individual as of the date of his/her license revocation regardless of subsequent procedures contesting the revocation.
- D. This Memorandum of Understanding applies to driving violations outside the workplace.
- E. This Memorandum of Understanding does not include positive test results from applicable state or federal required testing procedures, including but not limited to random testing.
- F. A \$2.00 per hour decrease in pay will begin as of the revocation date. Any hourly wages not paid to an employee during the revocation of the employee's driver's license/CDL will not be reimbursed regardless of the outcome of any subsequent contesting of the revocation.

This Memorandum will remain in effect from January 1, 2024, through December 31, 2026. This agreement may be terminated by either party's request with 90 days written notification. As of January 1, 2024, this Memo may be extended, modified, or eliminated at either party's request.

Approved by the Hastings City Council:
Date: _____

Approved by the IUOE Local No. 49
Date: 8-4-2023

FOR THE CITY OF HASTINGS:

Mary Fasbender, Mayor


Dan Wietecha, City Administrator

Kelly Murtaugh, City Clerk

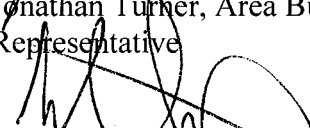
**FOR THE INTERNATIONAL UNION
OF OPERATING ENGINEERS, VIII-09
LOCAL No. 49:**




Jason George, Business Manager




Jonathan Turner, Area Business
Representative



Josh Sirinek, Steward



Robert Clark, Steward



Tim Tessier, Steward

CITY OF HASTINGS AND I.U.O.E., LOCAL No. 49
Memorandum of Understanding: Alternative Work Week

- I. **Purpose:** The purpose of this Memorandum of Understanding is to provide for a change in overtime payments under the current Labor Agreement. Whenever the City of Hastings and I.U.O.E. Local 49 agree that employees may work a schedule different than the ones outlined in the contract, the requirements of Article XI, Section 11.1, shall be modified.

- II. **Alternative Work Week Schedules**
 - a. In the event that the City of Hastings establishes a work week of four (4) consecutive ten (10) hours days (7:00 a.m. to 5:00 p.m.), Monday through Thursday or Tuesday through Friday, overtime will be paid only after ten (10) hours of work in one day or forty (40) hours of work in one week.
 - b. In the event that the City of Hastings establishes a work week of four (4) consecutive nine (9) hour days (7:00 a.m. to 4:00 p.m.) and one (1) four (4) hour day (7:00 a.m. to 11:00 a.m.), Monday through Friday, overtime will be paid only after nine (9) hours of work in one (1) day or forty (40) hours in one week.
 - c. In the event that the City of Hastings establishes a work week of four (4) consecutive eight (8) hour and fifteen (15) minute days (6:45 a.m. to 3:00 p.m.) and one (1) seven (7) hour day (6:45 a.m. to 1:45 p.m.) Monday through Friday, overtime will be paid only after eight (8) hours and fifteen (15) minutes of work in one day or (40) hours in one week.

- III. **Holidays**
 - a. For a week with a holiday, employees working a “four-10’s” shift will work three (3) ten (10) hour days, be paid for eight (8) hours of holiday pay, and use two (2) hours of vacation or compensatory time to account for their weekly hours.
 - b. For a week with a holiday, employees working a “four-9’s and one 4” shift will work be paid for eight (8) hours of holiday pay and use one (1) hour of vacation or compensatory time to account for their weekly hours.
 - c. For a week with a holiday, employees working a “four 8 and 15’s and one 7” will be paid for (8) hours of holiday pay, and use fifteen (15) minutes of vacation or compensatory time to account for their weekly hours.

- IV. **Use of Leave**
 - a. Any use of vacation, sick, or compensatory time will be accounted for as ten (10) hours per day of usage.
 - b. Any use of vacation, sick, or compensatory time will be accounted for as either nine (9) or four (4) hours per day of usage, depending on the employee’s schedule.
 - c. Any use of vacation, sick or compensatory time will be accounted for as either eight (8) hours and fifteen (15) minutes or seven (7) hours per day of usage, depending on the employee’s schedule.

V. **Effective** This Memorandum will remain in effect during the current Labor Agreement. This agreement may be terminated by either party's request with 7 days VIII-09 written notification. Termination of the Memorandum of Understanding is not cause for grievance. This Memo may be extended, modified, or eliminated at either party's request.

Approved by the Hastings City Council:
Date: _____

FOR THE CITY OF HASTINGS:

Mary Fasbender, Mayor

Dan Wietecha, City Administrator

Kelly Murtaugh, City Clerk

Approved by the IUOE Local No. 49
Date: 8-4-2023

**FOR THE INTERNATIONAL UNION
OF OPERATING ENGINEERS,
LOCAL No. 49:**

Jason George, Business Manager

Jonathan Turner, Area Business
Representative

Josh Sirinek, Steward

Robert Clark, Steward

Tim Tessier, Steward



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Kelly Murtaugh, Assistant City Administrator
Date: August 21, 2023
Item: Authorize Signature: Monsido Agreement

Council Action Requested:

Authorize signature on three-year agreement with Monsido.

Background Information:

The City has been utilizing a tool for monitoring and managing the useability of the website. The tool has some limitations and staff have been looking at other options.

The agreement to use the Monsido tool expands staff capabilities of managing and monitoring web activity, ensuring compliance, effectiveness, and useability. It is user-friendly for staff and supports timely updates to information without coding knowledge. It also expands the tools available to ensure the website provides current content to external users.

Financial Impact:

Year 1 (2023) \$0; Year 2 \$3393; Year 3 \$4524

Advisory Commission Discussion:

N/A

Council Committee Discussion:

N/A

Attachments:

Agreement

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Sales Order Form

Current Date: Jan 13, 2023

Expiration Date: August 31, 2023

Prepared by: Jake Andrade, jake.andrade@optimere.com

Customer City of Hastings, MN
101 4th Street East
Hastings, MN, 55033

Term Start Date September 1, 2023

Invoicing Date September 1, 2024 *(Net 30)*

Renewal Date September 1, 2026

Primary Contact Dave Hokstad
dhokstad@hastingsmn.gov

Invoicing Contact Dave Hokstad
dhokstad@hastingsmn.gov

YEAR 1 OF 3 (CONCEDED)	PRICE (USD)
Monsido Platform - Standard New <u>Web Scanning:</u> 2,500 Pages <u>Accessibility PDF Scanning:</u> 250 PDF Credits <u>Heat Maps:</u> 25 <u>Users:</u> Unlimited <u>Features:</u> Quality Assurance, Accessibility, Mobile Accessibility, PDF Accessibility Site Inventory, Heartbeat, Policy, SEO, Statistics, Heat Maps, Compliance Shield™ (PageAssist™ & PageCorrect™), Training & Support	\$4,524.00
Monsido Platform - Service Credit Credit of \$377 applied for 12 months of service. (Optional: Credit applied pending receipt of executed order form by 8/31/2023.	-\$4,524.00

Total (USD) \$0.00

YEAR 2 OF 3 (12 MONTHS FOR 9 MONTHS) PRICE (USD)

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<p>Monsido Platform - Standard New</p> <p><u>Web Scanning:</u> 2,500 Pages</p> <p><u>Accessibility PDF Scanning:</u> 250 PDF Credits</p> <p><u>Heat Maps:</u> 25</p> <p><u>Users:</u> Unlimited</p> <p><u>Features:</u> Quality Assurance, Accessibility, Mobile Accessibility, PDF Accessibility Site Inventory, Heartbeat, Policy, SEO, Statistics, Heat Maps, Compliance ShieldTM (PageAssistTM & PageCorrectTM), Training & Support</p>	<p>\$4,524.00</p>
<p>Monsido Platform - Service Credit</p> <p>Credit of \$377 applied for 3 months of service. (Optional: Credit applied pending receipt of executed order form by 1/25/2023.</p>	<p>-\$1,131.00</p>
<p>Total (USD)</p>	
<p>\$3,393.00</p>	

YEAR 3 OF 3	PRICE (USD)
<p>Monsido Platform - Standard New</p> <p><u>Web Scanning:</u> 2,500 Pages</p> <p><u>Accessibility PDF Scanning:</u> 250 PDF Credits</p> <p><u>Heat Maps:</u> 25</p> <p><u>Users:</u> Unlimited</p> <p><u>Features:</u> Quality Assurance, Accessibility, Mobile Accessibility, PDF Accessibility Site Inventory, Heartbeat, Policy, SEO, Statistics, Heat Maps, Compliance ShieldTM (PageAssistTM & PageCorrectTM), Training & Support</p>	<p>\$4,524.00</p>
<p>Total (USD)</p>	
<p>\$4,524.00</p>	

This SOFTWARE AS A SERVICE AGREEMENT ("the Agreement") is entered into and shall become effective on the earlier of either the date of signature or date of issuance of a purchase order referencing this Order Form and the terms and conditions herein (the "Effective Date"). This Agreement is entered into between Monsido, Inc., a Florida corporation with a principal place of business located at 5880 Oberlin Dr. 6th Fl, San Diego, CA 92121, ("Service Provider"), and the Customer listed above ("Customer"). This Agreement includes and incorporates the above

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Order Form, as well as the attached Terms of Service and Data Protection and Privacy Policy Statement and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

**CITY OF HASTINGS,
MN**

kumurtaugh@hastingsmn.gov

By:

Name, Title:

Kelly Murtaugh, acahr

Date:

2023-08-03

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TERMS OF SERVICE

BY EXECUTING AN ORDER FORM AND OTHERWISE USING THE MONSIDO SERVICES, YOU HEREBY AGREE TO BE BOUND TO THE FOLLOWING TERMS OF SERVICE.

SECTION I: DEFINITIONS

As used herein, the following terms shall have the following definitions:

- a) References to "Customer" mean a registered User of the Services.
- b) References to "Customer Website" mean those publicly-available pages of Customer's Website.
- c) References to "Dispute" mean any claim, conflict, controversy, disagreement between the Parties arising out of, or related in any way to, these Terms (or any Terms, supplement or amendment contemplated by these Terms,) including, without limitation, any action in tort, contract or otherwise, at equity or at law, or any alleged breach, including, without limitation, any matter with respect to the meaning, effect, validity, performance, termination, interpretation or enforcement of these Terms or any Terms contemplated by the Terms.
- d) References to "Effective Date" mean the date the Services are to start as set forth on the Order Form.
- e) References to "Material Breach" mean any breach of these Terms upon the occurrence of which a reasonable person in the position of the non-breaching Party would wish to immediately terminate these Terms because of that breach.
- f) References to an "Order Form" mean an Order Form signed by a Customer.
- g) References to the "Services" mean any and all services offered by Service Provider, including but not limited to those Web governance and Web page crawling services provided to Service Provider's Customers and any add-on services as set forth on the Order Form.
- h) References to the "Terms" and/or "Agreement," mean this, these Terms of Service as set forth herein.
- i) References to "Service Provider" and/or "Monsido," mean Monsido, LLC., and its subsidiaries, parents and affiliates.
- j) References to the "Web site" mean the Web sites bearing the URL <http://www.monsido.com> and app.monsido.com as well as any other Web site owned and/or operated by Service Provider related to the Services.

SECTION II: GENERAL PROVISIONS

2.1. About the Services. Service Provider provides an online tool suite and optional add-on services to scan the Customer's Web site once every seven (7) days, or more frequently, if requested and included in Customer's plan as set forth on the Order Form. Each scan shall produce a status report via email, which is thereafter accessible via the online dashboard available via the Web site. Via this same dashboard, Customer can also grant access to an unlimited number of permitted users within its own organization (each an "Authorized User,") to find and solve issues and make improvements related to Quality Assurance ("QA,") Search Engine Optimization ("SEO") and Web Governance. A current list of the Services provided via the tool suite can be found online at <http://monsido.com/features/> and is subject to change from time-to-time, without notice, and pursuant to Service Provider's sole and exclusive discretion. Notwithstanding the foregoing, in the event that such features are downgraded, Customer shall have the option to terminate this Agreement without penalty. In addition to the tool suite, Customer may purchase additional add-on tools, including but not limited to the PageAssist software widget and the PageCorrect feature.

2.2. Reliance on the Services; Assumption of the Risk. Customer acknowledges that the Services are provided for general information only and should not be relied upon or used as the sole basis for making decisions without consulting primary, more accurate, more complete or more timely sources of information. Customer acknowledges further that any reliance on the Services is at Customer's own risk.

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2.3. Restrictions and Responsibilities. In addition to the other restrictions on use set forth herein, Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Service Provider or authorized within the Services); or use the Services or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third party. Further, Customer may not remove or export from the United States or any other authorized territory or allow the export or re-export of the Services, Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, the EU embargoed countries list set forth by the E.U. Common Foreign and Security Policy, or any other United States or European Union or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are "commercial items" and according to DFAR section 252.227 7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement. Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Service Provider's standard published policies then in effect (the "Policy") and all applicable laws and regulations. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment"). Customer shall also be responsible for maintaining the security of the Equipment, Customer account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Customer account or the Equipment with or without Customer's knowledge or consent.

2.4. Restriction on Pages and Information Scanned. The Services are intended to be used to scan only Customer's public-facing web pages. For the avoidance of doubt, in no event shall Customer utilize the Services to scan private areas of Customer's Web sites, such as those areas that are password protected or contain private information about Customer and/or its users, employees, contractors, officers, directors, and/or other agents. In the event Customer so utilizes the Services in such a manner, Customer agrees and acknowledges that Monsido shall not be held liable for any damages arising from or related to the same, including but not limited to damages that may arise related to the failure to comply with data protection rules and regulations. Customer shall utilize the Software to scan only those URLs and domains belonging to Customer and/or for which Customer has a license to operate and manage the same. In no event shall the Software be used to scan URLs and domains outside of Customer's control or otherwise in bad faith.

2.5. System Updates. The Services will include all updates and new versions of the Software for no additional price increases through the duration of the Term. In the event Service Provider releases new services, products or modules, which were not a part of Customer's original service plan, Customer may elect to add such services, products or modules to its plan upon the payment of additional fees.

2.6. Technical Support. Service Provider will provide Technical Support to Customer via both telephone and electronic mail on weekdays during the hours of 7:00 am through 5:00 pm U.S. Pacific time, with the exclusion of U.S. Federal Holidays ("Support Hours.") Customer may initiate a helpdesk ticket during Support Hours by calling +1 858-281-2185 (United States Customer,) +44 20 3808 5496 (European Customer,) or +45 89 88 19 15 (Scandinavian Customer,) via email at info@monsido.com or via chat support available online at <https://monsido.com/services/help-center>. Customer may also send us a message at any time via our support ticket system on Customer's Account dashboards or via the form available at <http://monsido.com/contact/>. Service Provider will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day. We further provide technical support and product training as well as help center support. For more information see <http://monsido.com/services/product-training/> and <http://monsido.com/services/help-center/>, respectively.

SECTION III: ACCOUNTS, USE OF THE SERVICES

3.1. Online Accounts. Customer shall be given the opportunity to register via an online registration form to create an account, (hereinafter Customer's "Account,") that will allow Customer and Customer's Authorized Users to receive information from Service Provider and/or to participate in certain features of the Services. Service Provider will use the information Customer provides in accordance with Service Provider's Data Protection and Privacy Policy Statement, attached hereto. Customer represents and warrants that all information Customer provides on the registration form is current, complete and accurate to the best of Customer's knowledge. Customer agrees to maintain and promptly update Customer's registration information so that it remains current, complete and accurate. During the registration process, Customer may be required to choose a password. Customer acknowledges and agrees that Service Provider may rely on this password to identify Customer. Customer is responsible for all use of Customer's Account as well as any action taken thereunder by an Authorized User, regardless of whether Customer authorized such access or use, and for ensuring that all use of Customer's Account complies fully with the provisions of these Terms of Service.

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3.2. Multiple Accounts, Transfer Prohibited. Customer shall not have more than one (1) Account and shall not sell, trade or transfer that Account to any other person or entity.

3.3. Right to Monitor. Service Provider shall have the right to monitor Customer's Account in Service Provider's sole and exclusive discretion.

3.4. Customer Responsibilities. Customer shall ensure that any of Customer's Web sites are compatible with the Service Provider's tools. If Customer is using an AJAX application, the AJAX application must be designed to allow a crawler to access its content. Customer must use a current version of a major internet browser (e.g. Firefox, Chrome, Safari, Internet Explorer, Edge or some similar, well-known browser.) Regardless of the Web browser or coding language used, Customer shall ensure that the Service Provider's crawler is not blocked by any of the Customer's technology.

3.5. Data Confidentiality. Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Service Provider includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Service Provider to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance or development of the Services or as otherwise permitted herein or in the Service Provider's Data Protection and Privacy Policy Statement, attached hereto) or divulge to any third person any such Proprietary Information, unless required by law. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law. Customer shall own all right, title and interest in and to the Customer Data. Service Provider shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with the Services, Customer feedback or technical support, except for any pre-existing intellectual property rights owned by Customer and (c) all intellectual property rights related to any of the foregoing. Nothing in this provision shall be read to require Customer to provide any feedback. Notwithstanding anything to the contrary, Service Provider shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Service Provider will be free (during and after the term hereof) to use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Service Provider offerings. No rights or licenses are granted except as expressly set forth herein.

3.6. Service Levels. The Services shall be available Ninety-Nine Percent (99.0%) of the time, measured monthly, excluding holidays and weekends and scheduled maintenance. If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Service Provider's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Service Provider's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than one hour, Service Provider will credit Customer Five Percent (5%) of the service fees for each period of sixty (60) or more consecutive minutes of downtime; provided that no more than one such credit will accrue per day. Downtime shall begin to accrue as soon as Customer (with notice to Service Provider) recognizes that downtime is taking place, and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Service Provider in writing within three (3) business days from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one (1) week of service fees in any one (1) calendar month in any event. Service Provider will only apply a credit to the month in which the incident occurred. Service Provider's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Service Provider to provide adequate service levels under this Agreement.

SECTION IV: FEES; TERMS OF PAYMENT; REFUNDS

4.1. Service Fee. Subject to the terms of the Order Form together with any trial offer set forth thereon, Customer must pay the service fee and any additional add-on service fee each year during the Term in advance. Payment of the first (1st) service fee shall be due and owing as set forth in Section 4.3 of this Agreement. Service Provider reserves the right to change the service fee, or any other applicable fees and charges and to institute new charges and service fees at the end of the Initial Term or then current renewal term, upon thirty (30) calendar days' prior notice to Customer (which may be sent by email).

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4.2. Invoicing. All service fees as set forth herein shall be pre-paid, in full, on a monthly, annual or per-Term basis, (the "Billing Cycle,") as set forth on the Order Form, on the first (1st) day of the Billing Cycle, where the first (1st) day of the first (1st) Billing Cycle shall be the Effective Date set forth in the Software as a Service Agreement entered into by and between the parties. Payment shall be due and owing, in full, within thirty (30) calendar days of the Billing Date.

4.3. Form of Payment. Payment shall be made by Automated Clearing House ("ACH") or wire transfer, check, or recurring credit/debit card payment. A W9 form is available upon request.

4.4. Taxes. Customer is not responsible to collect or withhold any such taxes, including income tax withholding and social security contributions, for Service Provider as a result of Customer's payment of any and all fees. Any and all taxes, interest, or penalties, including any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of these Terms shall be paid or withheld by Service Provider. To the extent such taxes apply to Customer, Customer is responsible for any applicable taxes, including, without limitation, any sales, use, levies, duties, or any value added or similar taxes payable with respect to Customer's subscription and assessable by any local, state, provincial, federal, or foreign jurisdiction. Unless expressly specified otherwise in the Order Form, all fees, rates, and estimates exclude sales taxes and/or any indirect taxes including, but not limited to, VAT/GST/JCT. If Monsido believes any such tax applies to Customer's subscription and Monsido has a duty to collect and remit such tax, the same may be set forth on an invoice to Customer unless Customer provides Monsido with a valid tax exemption certificate, direct pay permit, or multi-state use certificate, and shall be paid by Customer immediately or as provided in such invoice. Customer shall indemnify, defend, and hold harmless Monsido and its officers, directors, employees, shareholders, agents, partners, successors, and permitted assigns against any and all actual or threatened claims, actions, or proceedings of any taxing authority arising from or related to the failure to pay taxes owed by Customer, except to the extent that any such claims, action, or proceeding is directly caused by a failure of Monsido to remit amounts collected for such purpose from Customer. Monsido is solely responsible for taxes based upon Monsido's net income, assets, payroll, property, and employees.

4.5. Suspension of Services. In the event a balance remains unpaid by Customer thirty-one (31) calendar days following the first (1st) day of the Billing Cycle for the Fees set forth above, Customer agrees and acknowledges that the Services shall be automatically suspended, without notice, until such payments are made, in arrears. Where permitted by law, unpaid amounts are subject to a finance charge of One-and-a-Half Percent (1.5%) per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection and may result in immediate termination of Service.

4.6. Refunds. Due to the electronic nature of the Services, in no event other than material breach of these Terms by Service Provider shall a refund be granted, in whole or in part, for any reason or no reason whatsoever, including but not limited to Customer's cancellation of the Services prior the end of the Term, Customer's failure to utilize the Services, or Service Provider's failure to meet any Service Level as set forth herein unless such failure is intentional or malicious.

SECTION V: TERM AND TERMINATION

5.1. Term and Termination; Renewals. These Terms are legally binding as of the Effective Date and shall continue for a term as set forth in the Order Form or until otherwise terminated as provided for herein, (the "Initial Term.") Following the Initial Term and unless otherwise terminated as provided for herein the Term may be renewed for successive terms, (each, a "Renewal Term,") with the Service Fees due under this Renewal Term shall be (i) the Service Provider's then-current Service Fees for the Services; or (ii) the Service Fee of the previous Term or Renewal Term plus three percent (3%); provided, however, that: (a) such notice be given no fewer than thirty (30) calendar days prior to the last day of the then-current term; and, (b) any such termination shall be effective as of the date that would have been the first day of the next Renewal Term. Without limiting the right of a party to terminate these Terms, a party may terminate this Agreement for convenience upon prior written notice to the other party with no fewer than thirty (30) calendar days prior written notice. Further, without limiting the right of a party to immediately terminate these Terms for cause as provided for in this Agreement, if either party materially breaches any of its duties or obligations hereunder and such breach is not cured, or the breaching party is not diligently pursuing a cure to the non breaching party's sole satisfaction, within thirty (30) calendar days after written notice of the breach, the non breaching party may terminate these Terms for cause as of a date specified in such notice. The Initial Term may be modified by agreement of the parties via the Order Form in which case the Term set forth on the Order Form shall control.

5.2. Payments upon Termination. In the event that Customer terminates use of the Services, except for in instances of Service Provider's material breach of these Terms, prior to the end of the Term, the remainder of the service fees and other fees shall immediately become due and owing and shall be paid in full no later than thirty (30) calendar days following Customer's notice of termination. In no event shall any fees paid be refunded, in whole or in part, for any reason or no reason whatsoever, where Customer terminates use of the Services

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prior the end of the Term, Customer failures to utilize the Services, or Service Provider fails to meet any Service Level as set forth herein unless such failure is intentionally or malicious. Notwithstanding the foregoing, in the event of termination by Service Provider without cause, Service Provider shall refund to Customer any pre-paid fees, pro-rata, from the date of termination.

SECTION VI: DISCLAIMERS; LIMITATIONS OF LIABILITY

6.1. DISCLAIMER OF WARRANTY. Service Provider shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Service Provider or by third-party providers, or because of other causes beyond Service Provider's reasonable control, but Service Provider shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, SERVICE PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND SERVICE PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT PROVIDED THE SAME IS NOT MALICIOUS OR WILLFUL.

6.2. LIMITATION OF LIABILITY. SUBJECT TO THE LAST SENTENCE OF SECTION 6.1 ABOVE, (A) CUSTOMER AGREES THAT USE OF THE SERVICES (INCLUDING ANY RELATED SOFTWARE PRODUCT PROVIDED BY SERVICE PROVIDER PURSUANT TO THESE TERMS OF SERVICE) IS AT CUSTOMER SOLE RISK. NEITHER SERVICE PROVIDER NOR SERVICE PROVIDER'S AFFILIATES NOR ANY RESPECTIVE EMPLOYEES, AGENTS, THIRD-PARTY CONTENT PROVIDERS OR LICENSORS WARRANT THAT THE USE OF THE SERVICES SHALL BE UNINTERRUPTED OR ERROR FREE; NOR DOES SERVICE PROVIDER MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES OR AS TO THE ACCURACY, RELIABILITY OR CONTENT OF ANY INFORMATION PROVIDED. (B) SUBJECT TO THE LAST SENTENCE OF SECTION 6.1, ANY DOWNLOADABLE SOFTWARE, PRODUCTS OR OTHER MATERIALS, WITHOUT LIMITATION, IS PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE AGAINST INFRINGEMENT, PROVIDED THE SAME IS NOT MALICIOUS OR WILLFUL, OTHER THAN THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THESE TERMS OF USE. (C) ALTHOUGH ALL INFORMATION AND MATERIALS PROVIDED VIA THE SERVICES ARE BELIEVED TO BE RELIABLE, SERVICE PROVIDER MAKES NO REPRESENTATIONS, NEITHER EXPRESSLY NOR IMPLIEDLY, AS TO THE ACCURACY, COMPLETENESS, TIMELINESS OR RELIABILITY OF THE SERVICES. (D) EXCEPT WHERE THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 6.2 ARE PROHIBITED BY LAW, IN NO EVENT SHALL SERVICE PROVIDER, SERVICE PROVIDER'S EMPLOYEES, SUBSIDIARIES, PARENTS, AGENTS, PARTNERS, THIRD-PARTY CONTENT PROVIDERS, VENDORS, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, OR MEMBERS, BE LIABLE TO CUSTOMER OR ANYONE ELSE FOR ANY LOSS OR DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO ANY DIRECT (EXCEPT FOR INSTANCES OF SERVICE PROVIDER'S SOLE NEGLIGENCE), INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, OR OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO EXEMPLARY, RELIANCE, OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS, PERSONAL INJURY OR DEATH, PROPERTY DAMAGE, REPUTATIONAL HARM, OR LOSS OF INFORMATION OR DATA, ARISING OUT OF OR RELATED TO THE USE OF OR INABILITY TO USE THE SERVICES. (E) SERVICE PROVIDER DISCLAIMS ANY AND ALL LIABILITY OF ANY KIND FOR ANY UNAUTHORIZED ACCESS TO OR USE OF CUSTOMER'S CUSTOMER DATA INFORMATION EXCEPT FOR INSTANCES OF SERVICE PROVIDER'S SOLE NEGLIGENCE AS TO NON-CONFORMITY WITH INDUSTRY DATA PROTECTION STANDARDS. BY UTILIZING THE SERVICES CUSTOMER ACKNOWLEDGES AND AGREES TO SERVICE PROVIDER'S DISCLAIMER OF ANY SUCH LIABILITY. (F) EXCEPT WHERE THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 6.2 ARE PROHIBITED BY LAW, SERVICE PROVIDER'S LIABILITY, AND (AS APPLICABLE) THE LIABILITY OF SERVICE PROVIDER'S SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AND SUPPLIERS, TO CUSTOMER OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE IS LIMITED TO THE GREATER OF (A) THREE TIMES THE AMOUNT OF FEES CUSTOMER PAYS TO SERVICE PROVIDER IN THE TWELVE (12) MONTHS PRIOR TO THE ACTION GIVING RISE TO LIABILITY, OR (B) ONE THOUSAND U.S. DOLLARS AND NO/CENTS (\$1,000.00,) WHICHEVER IS GREATER. (G) FOR THE AVOIDANCE OF DOUBT, THE FORGOING LIMITATIONS OF LIABILITY AND DISCLAIMERS OF WARRANTY SHALL APPLY TO ANY AND ALL ADDITIONAL SOFTWARE PRODUCTS, TOOLS, OR WIDGETS ("OPTIONAL SOFTWARE PRODUCTS.") BY PURCHASING THE SAME, CUSTOMER AGREES AND ACKNOWLEDGES THAT THE MISUSE OF SUCH OPTIONAL SOFTWARE PRODUCTS MAY POSE SIGNIFICANT RISK TO CUSTOMER AND CUSTOMER'S END-USERS, AND CUSTOMER HEREBY ACCEPTS FULL LIABILITY FOR THE SAME, SUBJECT TO THIS SECTION 6.2. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO CERTAIN

CUSTOMERS. The above limitations shall survive these Terms and inure to the benefit of Service Provider and Service Provider's employees, subsidiaries, parents, agents, partners, third-party content providers, vendors and their respective directors, officers, and members.

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SECTION VII: GOVERNING LAW; ARBITRATION

7.1. Governing Law. For governmental agencies: These Terms shall be governed and construed in accordance with the laws of your jurisdiction. For non-governmental customers: These Terms shall be governed and construed in accordance with the laws of the state of Florida without regard to its conflicts of law provisions. Customer agrees to submit to the personal jurisdiction of the courts located in Broward County, Florida, and any cause of action that relates to or arises from these Terms and/or the Services must be filed therein unless subject to the binding arbitration provisions of Section 7.2, infra.

7.2. Arbitration. Applicable only to non-governmental customers: The Parties agree that any dispute concerning, relating, or referring to these Terms and/or the Services shall be resolved exclusively by binding arbitration in accordance with the substantive laws of the state of Florida and shall be brought for arbitration in Broward County, Florida, pursuant to the rules of the American Arbitration Association. The arbitrator and not any federal, state, or local court or agency shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, conscionability, or formation of this contract, including but not limited to any claim that all or any part of this contract is void or voidable. Nothing herein prevents either Party from seeking any interim injunction it deems necessary in order to preserve the status quo prior to the resolution of any dispute, in any jurisdiction.

SECTION VIII: INTELLECTUAL PROPERTY

8.1. Ownership. All proprietary software, third party licensed software, software libraries, services, methodologies, techniques, algorithms, tools, materials, products, ideas, designs, and know-how used by Service Provider in providing the Services (including all reports and their copies, enhancements, modifications, revisions, and derivative works of any of the foregoing) and deliverables (whether oral or written) are, and shall remain, the sole and exclusive property of Service Provider. Nothing herein shall cause or imply any sale, license, or other transfer of proprietary rights of or in any third party software or products from Service Provider to Customer.

8.2. Grant of License by Customer. Service Provider reserves the right to reference Customer on public customer lists and to use Customer's name and logo on the Service Provider's Web site for marketing purposes. Additionally, Service Provider may request the use of Customer's name and/or logo in press releases, advertising material and other promotional material. Any such intent for use of Customer marks will be presented to the Customer in advance.

8.3. Grant of License by Service Provider. In consideration of the payment of the service fee, subject to the terms and conditions hereof and for the duration of the Term, Service Provider grants to Customer a limited, non-exclusive, non-transferable, non-sublicensable right and license to access and use the software and Services.

8.4. Restriction on Grant of License. Section 8.3, supra, shall only apply to the extent that Customer is using the Services for legitimate business use as intended by the purpose of the Services and not for the purpose of comparing the Services to a competitor or similar product of Monsido. Customer hereby warrants and affirms its purpose in accessing or otherwise using the Services is for their intended purpose only, and understands and agrees that any other use shall be considered fraud.

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SECTION IX: THIRD-PARTY ADVERTISEMENTS, PROMOTIONS, AND LINKS

9.1. Use of Third-Party Tools, Services, and Products. We may provide you with access or refer you to Third-Party tools, services, and products over which we neither monitor nor have any control nor input. You acknowledge and agree that we provide access to or refer you to such tools “as is” and “as available” without any warranties, representations, or conditions of any kind and without any endorsement. We shall have no liability whatsoever arising from or relating to your use of optional Third-Party tools, services or products. Any use by you of optional tools, products, or services offered through the Services or otherwise referred to you by us is entirely at your own risk and discretion, and you should ensure that you are familiar with and approve of the terms on which tools, services, and products are provided by the relevant Third-Party provider(s).

SECTION X: MISCELLANEOUS

10.1. Authority. Each Party represents and warrants to the other that it has full power and authority to enter into this Agreement and that it is binding upon such Party and enforceable in accordance with its Terms.

10.2. Waiver. Any waiver of a right under these Terms of Service shall only be effective if agreed or declared in writing. A delay in exercising a right or the non-exercise of a right shall not be deemed a waiver and shall not prevent a Party from exercising that right in the future. The rights and remedies herein provided are cumulative and not exclusive of any rights and remedies provided by law.

10.3. Force Majeure. Service Provider shall not be bound to meet any obligation if prevented from doing so as a consequence of acts of God or force majeure, including but not limited to measures taken or imposed by any government or public authority or in case of any other event beyond our control, including but not limited to natural disasters (such as storm, hurricane, fire, flood, earthquake), war, civil unrest, terrorist activities, pandemics, states of emergency, government sanctions, embargos, nationalizations, strikes and breakdowns of public utilities (such as of electricity or telecommunication services). Service Provider shall use all reasonable efforts to notify Customer of the circumstances causing the delay and to resume performance as soon as possible, both without undue delay.

10.4. Assignment. Service Provider shall have the right to assign and/or transfer these Terms of Service and Service Provider’s rights and obligations hereunder to any wholly-owned subsidiary, parent company, or affiliate after notifying Customer as provided for herein. Notwithstanding the forgoing, Services Provider shall not assign and/or transfer these Terms of Service and Service Provider’s rights and obligations hereunder to any other third party except for as referenced above without providing thirty (30) calendar days’ written notice to Customer who shall have the option to terminate the Agreement at its option. In the event Customer divests all or any part of its businesses to a third party (whether direct or indirect or by sale, merger, consolidation, or otherwise) or reorganizes its businesses, Customer may assign or duplicate its rights and obligations under this Agreement so as to retain the benefits of this Agreement for both Customer and such third party. No terms added to any purchase order issued by the Customer shall have any force or effect unless expressly consented to, in signed writing, by an authorized representative of Service Provider. In the event Service Provider does so expressly consent to such PO terms, this Agreement shall control.

10.5. Rights of Third Parties. These Terms do not give any right to any Third Party unless explicitly stated herein.

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10.6. Relationship of the Parties. The Parties are independent contractors under these Terms, and nothing herein shall be construed to create a partnership, joint venture or agency relationship between them. Neither Party has authority to enter into Terms of any kind in the name of the other Party.

10.7. Severability. If any part of this Agreement is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

10.8. Notices. Except as explicitly stated otherwise, any notices shall be given by postal mail to the address first set forth above, as amended from time-to-time.

10.9. Entire Agreement. This Agreement, together with the Order Form represents the complete and exclusive statement of the Agreement between the Parties as to the subject matter hereof. No other Agreements, covenants, representations or warranties, express or implied, oral or written, have been made by the Parties concerning this Agreement.

Special Notice to California Residents

This *Privacy Notice for California Residents* supplements the information contained in our privacy policy above and applies solely to all visitors, users, and others who reside in the State of California ("consumers" or "you"). We adopt this notice to comply with the California Consumer Privacy Act of 2018 (CCPA) and any terms defined in the CCPA have the same meaning when used in this notice.

Information We Collect

Our Website collects information that identifies, relates to, describes, references, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or device ("personal information"). In particular, our website has collected the following categories of personal information from its consumers within the last twelve (12) months:

Category A: Identifiers

Examples: A real name, Internet Protocol address, email address, or other similar identifiers.

Collected: YES

Category B: Personal information categories listed in the California Customer Records statute (Cal. Civ. Code § 1798.80(e)).

Examples: A name, signature, Social Security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information. Some personal information included in this category may overlap with other categories.

Collected: YES

Category C: Protected classification characteristics under California or federal law.

Examples: Age (40 years or older), race, color, ancestry, national origin, citizenship, religion or creed, marital status, medical condition, physical or mental disability, sex (including gender, gender identity, gender expression, pregnancy or childbirth and related medical conditions), sexual orientation, veteran or military status, genetic information (including familial genetic information).

Collected: NO

Personal information does not include:

- Publicly available information from government records.
- De-identified or aggregated consumer information.
- Information excluded from the CCPA's scope, like:
 - health or medical information covered by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the California Confidentiality of Medical Information Act (CMIA) or clinical trial data;
 - personal information covered by certain sector-specific privacy laws, including the Fair Credit Reporting Act (FRCA), the Gramm-Leach-Bliley Act (GLBA) or California Financial Information Privacy Act (FIPA), and the Driver's Privacy Protection Act of 1994.

We obtain the categories of personal information listed above from the following categories of sources:

- Directly from you. For example, from forms you complete on our Web site.
- Indirectly from you. For example, from observing your actions on our Web site or interactions with our advertisers.

Use of Personal Information

We may use, or disclose the personal information we collect for one or more of the following business purposes:

- To fulfill or meet the reason you provided the information. If you provide your personal information to purchase a product or Service, we will use that information to process your payment and facilitate delivery.
- To provide you with support and to respond to your inquiries, including to investigate and address your concerns and monitor and improve our responses.
- To respond to law enforcement requests and as required by applicable law, court order, or governmental regulations.
- As described to you when collecting your personal information or as otherwise set forth in the CCPA.
- We will not collect additional categories of personal information or use the personal information we collected for materially different, unrelated, or incompatible purposes without providing you notice.

Sharing Personal Information

We may disclose your personal information to a third party for a business purpose. When we disclose personal information for a business purpose, we enter a contract that describes the purpose and requires the recipient to both keep that personal information confidential and not use it for any purpose except performing the contract.

For a list of whom we share your personal information, please see this Privacy Policy, *Sharing Information with Third Parties*.

Disclosures of Personal Information for a Business Purpose

In the preceding twelve (12) months, Monsido has disclosed personal information for a business purpose to the extent necessary to provide customer support and back-end development of our services.

Sales of Personal Information

In the preceding twelve (12) months, Monsido had not sold personal information.

Your Rights and Choices

The CCPA provides consumers (California residents) with specific rights regarding their personal information. This section describes your CCPA rights and explains how to exercise those rights.

Access to Specific Information and Data Portability Rights

You have the right to request that we disclose certain information to you about our collection and use of your personal information over the past twelve (12) months. Once we receive and confirm your verifiable consumer request, we will disclose to you:

- The categories of personal information we collected about you.
- The categories of sources for the personal information we collected about you.
- Our business or commercial purpose for collecting or selling that personal information.
- The categories of third parties with whom we share that personal information.
- The specific pieces of personal information we collected about you (also called a data portability request).
- If we sold or disclosed your personal information for a business purpose, two separate lists disclosing:
 - sales, identifying the personal information categories that each category of recipient purchased; and
 - disclosures for a business purpose, identifying the personal information categories that each category of recipient obtained.

Deletion Request Rights

You have the right to request that we delete any of your personal information that we collected from you and retained, subject to certain exceptions. Once we receive and confirm your verifiable consumer request, we will delete (and direct our service providers to delete) your personal information from our records, unless an exception applies.

We may deny your deletion request if retaining the information is necessary for us or our service provider(s) to:

- Complete the transaction for which we collected the personal information, provide a good or service that you requested, take actions reasonably anticipated within the context of our ongoing business relationship with you, or otherwise perform our contract with you.
- Detect security incidents, protect against malicious, deceptive, fraudulent, or illegal activity, or prosecute those responsible for such activities.
- Debug products to identify and repair errors that impair existing intended functionality.
- Exercise free speech, ensure the right of another consumer to exercise their free speech rights, or exercise another right provided for by law.
- Comply with the California Electronic Communications Privacy Act (Cal. Penal Code § 1546 et. seq.).
- Engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws, when the information's deletion may likely render impossible or seriously impair the research's achievement, if you previously provided informed consent.
- Enable solely internal uses that are reasonably aligned with consumer expectations based on your relationship with us.
- Comply with a legal obligation.
- Make other internal and lawful uses of that information that are compatible with the context in which you provided it.

Exercising Access, Data Portability, and Deletion Rights

To exercise the access, data portability, and deletion rights described above, please submit a verifiable consumer request to us by sending us a message on our website. Only you, or a person registered with the California Secretary of State that you authorize to act on your behalf, may make a verifiable consumer request related to your personal information. You may also make a verifiable consumer request on behalf of your minor child.

You may only make a verifiable consumer request for access or data portability twice within a twelve- (12)-month period. The verifiable consumer request must:

- Provide sufficient information that allows us to reasonably verify you are the person about whom we collected personal information or an authorized representative.
- Describe your request with sufficient detail that allows us to properly understand, evaluate, and respond to it.

We cannot respond to your request or provide you with personal information if we cannot verify your identity or authority to make the request and confirm the personal information relates to you. We will only use personal information provided in a verifiable consumer request to verify the requestor's identity or authority to make the request.

Response Timing and Format

We endeavor to respond to a verifiable consumer request within forty-five (45) days of its receipt. If we require more time (up to 90 days), we will inform you of the reason and extension period in writing. We will deliver our written response by mail or electronically, at your option. Any disclosures we provide will only cover the twelve- (12-) month period preceding the verifiable consumer request's receipt. The response we provide will also explain the reasons we cannot comply with a request, if applicable. For data portability requests, we will select a format to provide your personal information that is readily useable and should allow you to transmit the information from one entity to another entity without hindrance, specifically by electronic mail communication.

We do not charge a fee to process or respond to your verifiable consumer request unless it is excessive, repetitive, or manifestly unfounded. If we determine that the request warrants a fee, we will tell you why we made that decision and provide you with a cost estimate before completing your request.

Personal Information Sales Opt-Out and Opt-In Rights

If you are sixteen (16) years of age or older, you have the right to direct us to not sell your personal information at any time (the "right to opt-out"). We do not sell the personal information of consumers we actually know are less than sixteen (16) years of age, unless we receive affirmative authorization (the "right to opt-in") from either the consumer who is between thirteen (13) and sixteen (16) years of age, or the parent or guardian of a consumer less than thirteen (13) years of age. Consumers who opt-in to personal information sales may opt-out of future sales at any time. To exercise the right to opt-out, you (or your authorized representative) may submit a request to us by visiting the following our webpage and sending us a message.

Once you make an opt-out request, we will wait at least twelve (12) months before asking you to reauthorize personal information sales. However, you may change your mind and opt back in to personal information sales at any time by visiting our website and sending us a message. We will only use personal information provided in an opt-out request to review and comply with the request.

Non-Discrimination

We will not discriminate against you for exercising any of your CCPA rights. Unless permitted by the CCPA, we will not:

- Deny you goods or services.
- Charge you different prices or rates for goods or services, including through granting discounts or other benefits, or imposing penalties.
- Provide you a different level or quality of goods or services.
- Suggest that you may receive a different price or rate for goods or services or a different level or quality of goods or services.


However, we may offer you certain financial incentives permitted by the CCPA that can result in different prices, rates, or quality levels. Any CCPA-permitted financial incentive we offer will reasonably relate to your personal information's value and contain written terms that describe the program's material aspects. Participation in a financial incentive program requires your prior opt in consent, which you may revoke at any time.

California's "Shine the Light" law (Civil Code Section § 1798.83) permits users of our Website that are California residents to request certain information regarding our disclosure of personal information to third parties for their direct marketing purposes. To make such a request, please send us an electronic message through our website or write us at our address listed on our webpage.

To make any such a requests, please contact us through one of the channels listed in this notice.

Signature Certificate

Reference number: F5TDJ-JVWPU-GEBRW-YM3JO

Signer	Timestamp	Signature
Email: kmurtaugh@hastingsmn.gov		
Sent:	31 Jul 2023 16:55:09 UTC	
Viewed:	03 Aug 2023 18:12:46 UTC	
Signed:	03 Aug 2023 18:15:18 UTC	
Recipient Verification:		IP address: 207.171.110.153
✓Email verified	03 Aug 2023 18:12:46 UTC	Location: Hastings, United States

Document completed by all parties on:
03 Aug 2023 18:15:18 UTC

Page 1 of 1



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City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Chris Jenkins, Parks & Recreation Director
Date: August 21, 2023
Item: Art Lease Agreement with Dale Lewis

Council Action Requested: Approve the attached lease agreement with Dale Lewis.

Background Information: Hastings Environmental Protectors (HEP) submitted for and was awarded \$3,000.00 in Community Investment Fund funding to support leasing one piece of art from Dale Lewis for a duration of 3 years. The art piece will be switched out each year, and will be located along Hastings' trail system, within Vermillion Linear Park. Members of HEP have worked with members of the Arts Commission and Mr. Lewis to select the first years' art piece. Final placement will be coordinated with Parks & Recreation Staff and HEP, and installation assistance will be provided by the City.

Financial Impact: Budgeted and allocated funds being used, no additional impact.

Advisory Commission Discussion: N/A

Council Committee Discussion: N/A

Attachments:

- Lease Agreement

ARTWORK LEASING AGREEMENT

This Artwork Leasing Agreement (“Agreement”) is made and entered into this ___ day of _____, 20___, (“Effective Date”), by and between Dale Lewis (“Lessor”) and the City of Hastings, MN (“Lessee”).

WHEREAS, the Lessor would like to display and the Lessee would like to accept the display of certain sculpture artwork on property owned by the Lessee subject to the terms of this Agreement.

Now therefore, the parties hereby agree as follows:

AGREEMENT

1. Lease of Artwork and Term: Subject to the terms and conditions set forth below, the Lessor rents to the Lessee the following Sculpture:

No-Iron Dragonfly (purchase price \$12,000)

(“Sculptures” or “Artwork”) for the term of one year commencing from the Effective Date of this Agreement.

2. Rental Rate: The Lessee shall pay a lump sum of \$1,000 per sculpture for the term of the Agreement, due and payable within 30 days following installation.

3. Location, Installation and De-installation: The location of the Sculptures shall be on Lessee’s property (“City Property”), at a mutually agreed upon location. Installation will be arranged between the Lessor and the Lessee depending upon the weather, availability of Hastings equipment, park access and personal, and dates the Sculptures are available. At least 14 days’ notice is required. No fixtures or other materials needed for the installation and ongoing display of the Sculptures may be affixed to City Property without prior consent of the Lessee. Should any Artwork be required to be moved after installation Lessee will notify the Lessor of the intent to relocate the sculpture and the Lessor must give permission before Artwork is relocated.

4. Ownership and Use: The Artwork shall at all times be the sole and exclusive property of the Lessor. The Lessee shall have no rights or property interest in the Artwork, except for the right to display the Artwork in its intended manner and to market the Artwork to encourage visitors to enjoy Hastings’ trail system . The Lessee recognizes the copyright interests of the Lessor in the Artwork and shall not infringe or allow an infringement of the Lessor’s rights.

5. Repairs, Maintenance. Should a sculpture require a repair the Lessee will immediately notify the Lessor. No repairs shall be done without expressed approval of the Lessor. The Lessor shall have the right to perform any maintenance to the Sculptures, but may not intentionally alter, modify, or make changes to any City Property without the prior approval of the Lessee. Maintenance of the site around the Artwork will be subject to the Lessee's or 3rd party agreements created at the time of installation.

6. Insurance. The Lessee shall carry insurance to cover the replacement cost of the Artwork in regard to theft, natural disasters, and liability and will pay over the proceeds of such insurance to the Lessor upon receipt of proceeds.

7. Default. Neither Lessee nor Lessor shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. A default in payment of more than seven (7) days by the Lessee or violation of any other term of this agreement shall allow the Lessor to retake possession of the Artwork. The Lessor shall retain all its rights in law and equity and is entitled to reasonable attorney's fees and cost upon the default of the Lessee.

8. Indemnity. Lessor and Lessee each agree to indemnify, and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by its negligent acts, errors, or omissions.

9. Continuation or Purchase. With the Lessee's consent, the Lessor may offer to leave the Artwork in place after the term of this lease for no additional fee with the understanding that the Artwork may remain in the location throughout the winter and most likely not be removed or replaced until spring. The Lessee acknowledges that the Artwork is for sale and may exercise the right to purchase the Artwork at any time. Also, should the Artwork be sold to a third party during the lease term the Lessee is entitled to a commission fee equivalent to 20% of the purchase price.

10. Recall or Exchange of Leased Artwork: Occasionally, Leased Artwork may be recalled by Lessor because of a sale or exhibit. A fourteen (14) day notice will be provided to exchange the Artwork. Following the installation de-installation provisions, the Lessor will, coordinate with the City of Hastings to retrieve leased Artwork from City of Hastings and replace leased Artwork with other artwork that is mutually acceptable to Lessee for the remaining term of the lease.

11. Amendments. This agreement is the only agreement of the parties and may only be amended in writing or by a separate written agreement of the parties.

12. Application of Laws: This agreement shall be construed under Minnesota law and shall be binding on the heirs, successors and assigns of the parties.

13. Notices: Notices shall be communicated to the following addresses:

If to City: City of Hastings
 101 4th Street East
 Hastings, MN 55033
 Attn: City Administrator

Or e-mailed: dwietecha@hastingsmn.gov

If to Artist: Dale Lewis
 802 Reuter Drive
 Hastings, MN 55033

Or e-mailed: ArtistDaleLewis@gmail.com

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City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Chris Jenkins, Parks & Recreation Director
Date: August 21, 2023
Item: Agreement Amendment #1 with Apex Facility Solutions, LLC

Council Action Requested:

Approve Amendment #1 for the Guaranteed Energy Savings Agreement with Apex Facility Solutions, LLC for the Refrigeration Plant Replacement, West Rink Roof Replacement, and Solar System Installation projects at the Hastings Civic Arena.

Background Information:

These projects have been identified as needed facility upgrades, and Council has provided their commitment to completing both of these projects in 2024.

The refrigeration plant replacement requires up front design and engineering services to be completed, and the plants motor control center also needs to be ordered well in advance of the project due to long lead times for specialty equipment.

The design and engineering have been completed and we are prepared to order the motor control center, and lock in a roofing contractor for a 2024 West Rink roof replacement with this amendment.

Minnesota Statute 471.345 subd. 13 allows the City to enter into a Guaranteed Energy Savings Agreement such as what is proposed. Using this statute does require the City to publish our intent to enter into this agreement, which was completed in the June 22, 2023 edition of the Hastings Journal. This agreement must also guarantee energy savings over the 20-year life of the agreement, which it does.

Entering this agreement with Apex allows them to act as our general contractor, solicit quotes from pre-qualified contractors for each individual component of the project, which city staff will review and approve as appropriate, and allows each of the major components of the project to be added by amendment.

Financial Impact:

The motor control centers are guaranteed at a cost of \$258,929.00, and as long lead items (50-70 weeks), it is time to place the order.

The West Rink roofing replacement project is guaranteed at a cost of \$1,161,746.00 for a 2024 project.

Advisory Commission Discussion:

N/A

Council Committee Discussion:

Attachments:

- Amendment #1
- Roofing bid tabulation
- Refrigeration project bid tab for MCC breakout
- Apex Facility Solutions, LLC agreement (fully executed)



Amendment 1

Apex Facility Solutions, LLC

Client: City of Hastings
Project: Hastings Civic Arena Upgrades
Apex Project No: 30323036

Amendment No: 1
8/16/2023

The Contract is Amended as Follows:

This Amendment 1 modifies the existing Agreement to add more detailed scope of work and costs for the roofing and MCC line items on the agreement. The following changes to the agreement are included in this Amendment.

1. Replace the Agreement Exhibit A Scope of Work with the attached new Exhibit A.
2. Replace the Agreement Exhibit B Schedule of Payments with the attached new Exhibit B.
3. Section 10.0 Compensation and Payment: replace the Construction Work list with the following updated list.

Construction Work

Refrigeration System Motor Control Center (long lead item)	\$258,929.00
Refrigeration System	TBD and added by Amendment
Roof Replacement West Rink	\$1,161,746.00
Solar on West Rink	TBD and added by Amendment

Original Contract Value:	\$217,391.00
Net Prior Amendments:	\$0.00
Contract Value Prior to this Amendment:	\$217,391.00
This Amendment Add (Deduct):	\$1,420,675.00
New Contract Value after Change Order:	\$1,638,066.00

NOT VALID UNTIL SIGNED BY THE CONTRACTOR AND CLIENT

Apex Facility Solutions, LLC
Contractor

City of Hastings
Client

By (Signature)

By (Signature)

By (Printed)

By (Printed)

Date

Date

Attachments:

- Exhibit A Summary of Work
- Exhibit B Payments Schedule



EXHIBIT A SUMMARY OF WORK

X-B-01

Exhibit A – Summary of Work

Definitions:

CLIENT shall also be referred to as OWNER and/or HOST.

CONTRACTOR shall also be referred to as APEX and/or DEVELOPER.



Apex Facility Solutions

Work Description	Location	Cost	Guaranteed Utility Savings	Annual O&M Savings	One Time O&M Savings	Potential Incentives	Net Cost	Simple Payback
Ice Arena Long Lead Items								
MCC - Purchasing of new Motor Control Center for the ice plant	Ice Arena	\$258,929	\$0	\$0	\$200,000	\$0	\$58,929	N/A
Refrigeration Design - Design of the ice rink refrigeration system to size the MCC	Ice Arena	\$217,391	\$16,241	\$7,000	\$0	\$0	\$217,391	9.4
Other Scope Items								
Roofing - Replace existing Roof with new built up roof, new drains, and parapits	West Ice Sheet	\$1,161,746	\$0	\$0	\$800,000	\$0	\$1,161,746	N/A
Refrigeration system - Replace existing R22 system with new refrigeration system	Ice Arena	\$0	\$0	\$0	\$0	\$0	\$0	N/A
Solar System - Install new Solar PV System on the West Roof	Ice Arena	\$0	\$0	\$0	\$0	\$0	\$0	N/A
Totals		\$1,638,066	\$16,241	\$7,000	\$1,000,000	\$0	\$1,438,066	18.8

Scope General:

Scope of work shall be development and construction of the following major scopes of work:

- Refrigeration Design
- Long Lead Equipment Procurement
- Replacement of Existing Refrigeration System
- Replacement of West Rink Roof
- Install Solar on the West Rink Roof

Refrigeration Design: Refrigeration design shall include design required for the replacement of the existing refrigeration system located at Hastings Civic Arena with a new two rink industrial grade ammonia refrigeration system and identification and specification of any long lead equipment required to support a Summer 2024 installation schedule.

Work Included:

- Ice System engineering includes one industrial grade refrigeration system and waste heat recovery systems (subfloor heating, snow melt pit system).
- Mechanical engineering including ventilation system for new ice equipment room, eyewash shower systems, connection to fire alarm system, and plumbing modifications as necessary.

- Electrical engineering including new electrical feeder to new ice equipment motor control center if needed and to the new mechanical equipment, convenience receptacles, and lighting modifications in the new ice equipment room.
- Architectural and structural design for enclosing the existing mechanical room for code compliant room, condenser supports, pipe penetrations, etc.
- Demolition drawings for systems mentioned above.

MCC: As part of the development of the ice arena refrigeration plant, two MCCs were necessary to provide the plant with power. One of the units would be located in the Ammonia refrigeration room to power the compressors and accessories in that room. The second would be in the pump room that would power the main rink pumps, and other aspects of the refrigeration plant. These electrical parts are critical to the function of the plant.

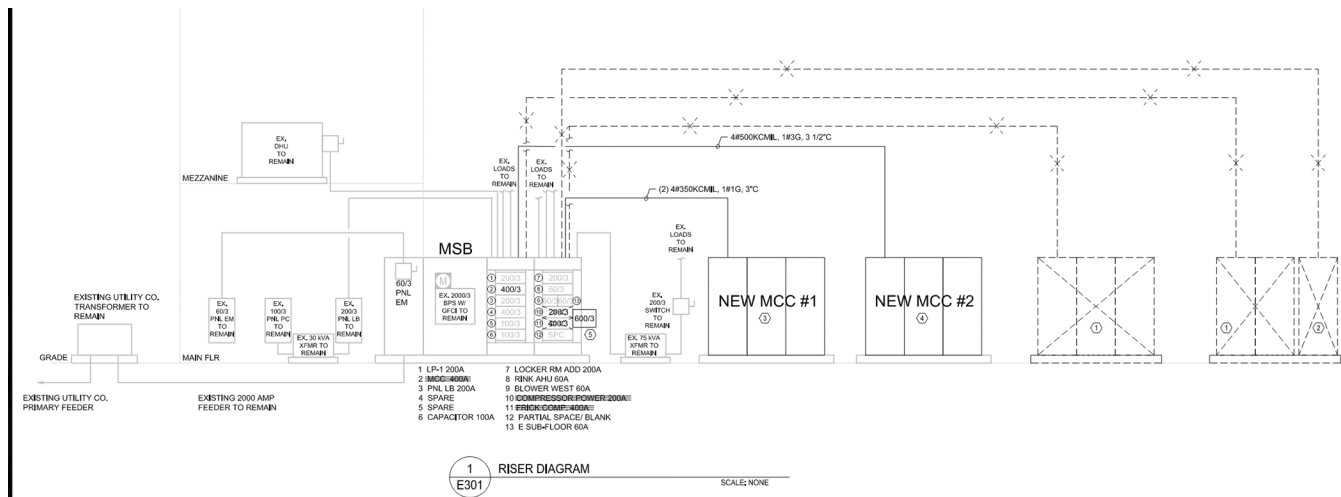




EXHIBIT A SUMMARY OF WORK

X-B-01

Replacement of Refrigeration System: Replacement of the existing refrigeration system shall include replacement of the existing refrigeration system with a new two rink ammonia refrigeration system. The final cost of this work shall be added to the Agreement by Amendment after scope of work is rebid and final price is established.

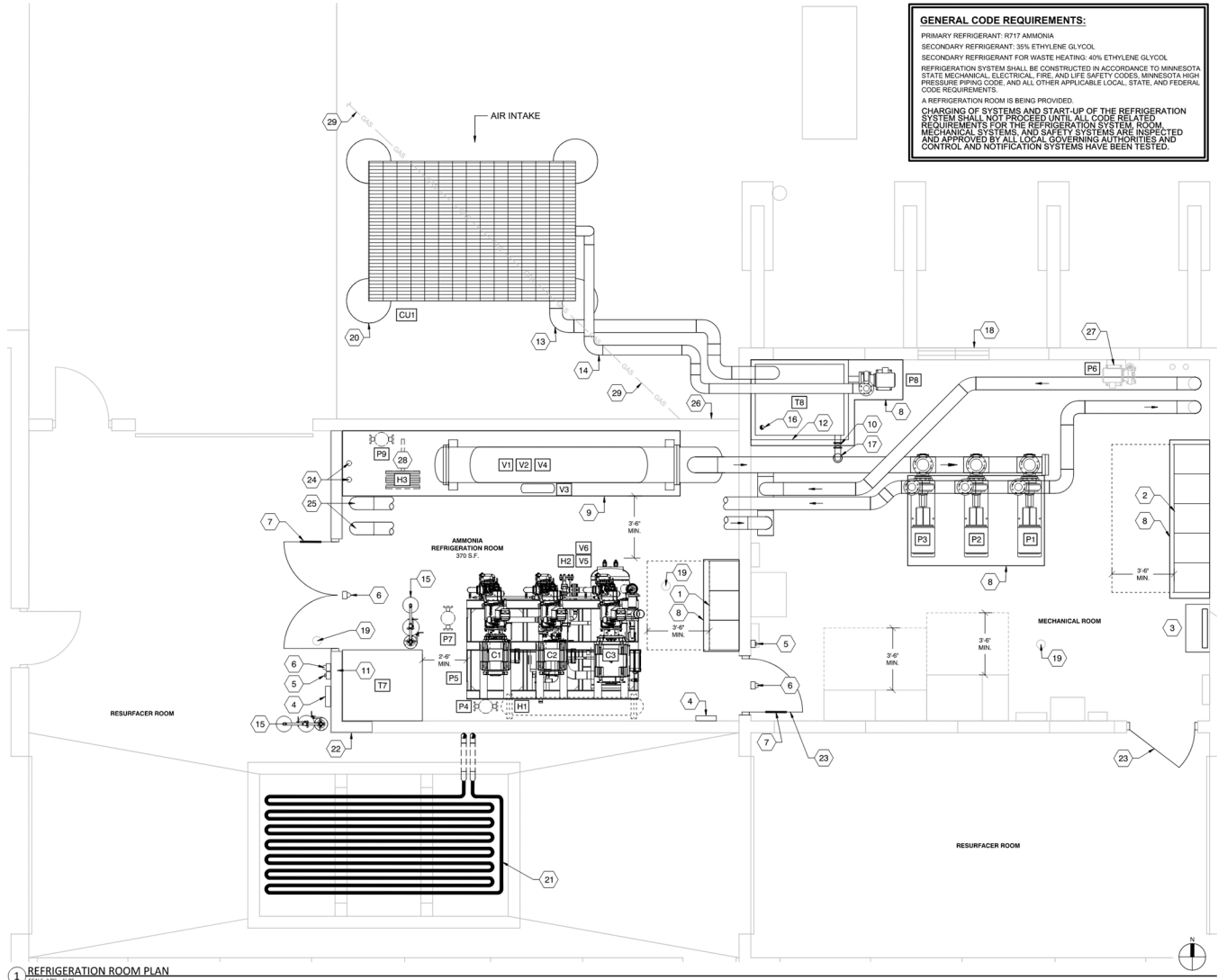




EXHIBIT A SUMMARY OF WORK

X-B-01

Replacement of West Rink Roof: Work under this scope item shall include replacement of the existing west rink flat roof with a new modified built-up roof, and new metal perimeter roofing with flashing. A new ladder would be installed from the lower roof for safe access to the higher roof.

In addition to the new flat roof, perimeter edging will be installed to eliminate the flat roof water from going over the edge. With new sloped insulation and roof drainage, new interior roof drains will be installed to take the water away. The water will be discharged into an existing rain water system in the parking lot.

Below is the scope of work for the roofing project:

SCOPE OF WORK

- 1) Tear Off & Preparation** – all bidding contractors are responsible to field measure and verify existing core data as needed to accurately bid the project. Remove the existing roof system down to the top surface of insulation. Dispose of all debris in a certified landfill. Any wet insulation shall be replaced per the unit price found on the bid form. Proper change notice form must be submitted and signed for approval.
- 2) New Insulation** - Calculate the R-value for the existing insulation. Install additional polyisocyanurate/wood fiber insulation throughout the entire field of the roof in order to meet or exceed current R-value code requirements (existing & new combined). Fill all low areas with tapered polyisocyanurate to insure positive drainage occurs throughout the entire field of the roof. Attach insulation according to manufacturer's requirements.
- 3) Install tapered saddles, crickets, 12'X12' drain sumps, and overflow scuppers.** Crickets and saddles shall slope twice that of the field of the roof. Contractor to submit shop drawings for approval.
- 4) Install 1/2" wood fiber recovery board set into solid moppings of Type III hot asphalt.** Stagger all insulation joints from underlying layers.
- 5) Install the new modified bitumen roof system as specified.**
- 6) Install the new modified bitumen flashings as specified.**
- 7) Install the new flood coat and gravel surfacing as specified.**
- 8) Install new 24ga. Prefinished sheet metal throughout the perimeter and projections as shown in the detailed drawings and as specified.** Maximum allowable face is 8". All sheet metal must extend down to the field of the roof. **NO EXPOSED FLASHINGS ALLOWED.**

SYSTEM DETAILS:

1. NEW ROOF SYSTEM ON AREAS IDENTIFIED ABOVE SHALL BE AS FOLLOWS:
 - 1) THREE-PLIES OF APPROVED GLASS FELTS.
 - 2) ONE-PLY OF APPROVED MODIFIED FIELD MEMBRANE SET IN HOT ASPHALT.
 - 3) ONE-PLY OF MODIFIED FLASHING MEMBRANE WITH BASE FLASHING UNDERLAYMENT.
 - 4) FLOOD/GRAVEL SURFACING.
2. All roof drains and primary scuppers shall receive 12' x 12' tapered insulation sump.
3. All roof penetrations shall have a min. of 8" flashing heights.
4. All penetrations and perimeter shall receive new 24 ga. prefinished sheet metal extended down to the field of the roof. **NO EXPOSED FLASHINGS ALLOWED. Owner to approve color.**

General Notes:

- Contractor must verify core data, dimensions, field penetrations, etc. in order to accurately bid the project.
- Remove any obsolete roof penetrations / curbs at the time of roof replacement. Match deck type & infill with similar insulation.

Perimeter detail:
Remove existing and install new SS mansard and metal fascia

New Roof Drains
Roofing contractor to supply and install six (6) new roof drains/trainers. JOSAM 21500 Series. Interior plumbing by others.

Perimeter Edge Detail:
Install new wood blocking to account for total insulation thickness including cricket heights. Install new 6'X6" wood cant strip. Install new head closure / closure metal onto the existing standing seam roof system.

Perimeter detail:
Install minimum 6 courses of 2X6 lumber and 6X6 wood cant to accommodate new insulation and drainage modifications.


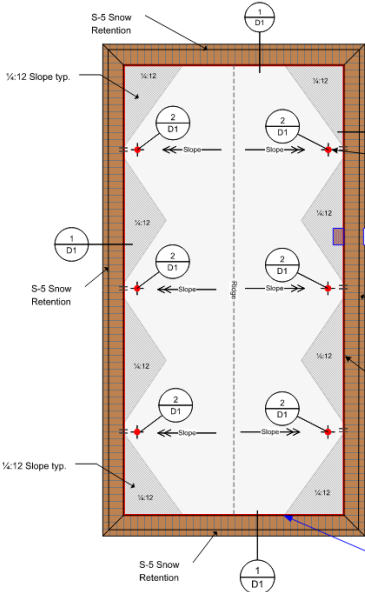
LINE Item ADD: Install new ladder and steps with rails sloped and attached to new curbs.

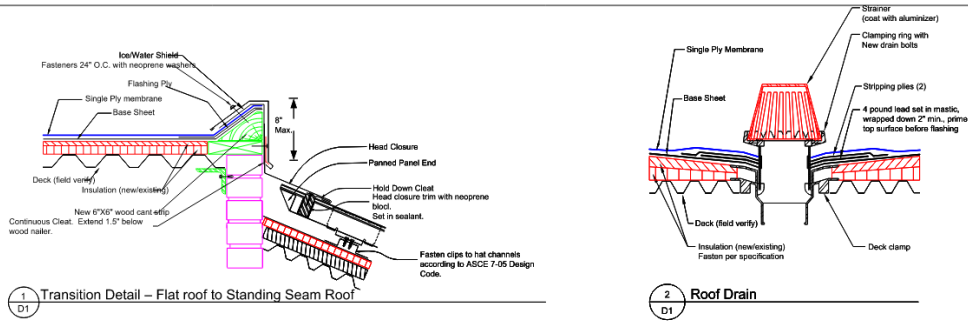
Legend

- ⊕ Details
- ◆ Roof drain
- ⊠ Roof curb
- Plumbing stack
- ≡ Scupper
- ⊞ Skylight

City of Hastings Civic Center

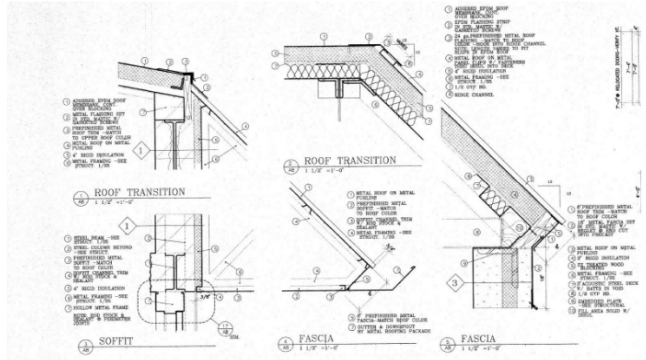
TITLE: Roof Replacement Project
COMPANY: City of Hastings
DATE: See Specification Package
SCALE: All bidding contractors must field measure



1 Transition Detail – Flat roof to Standing Seam Roof

2 Roof Drain



A Existing Details – See Architectural Drawings

- 1) Details shown are representative of finished details. Contractors shall take into account existing insulation, new insulation, and the new roof system. Wood blocking shall be added to achieve the minimum flashing heights shown.
- 2) All one piece sheet metal fascia is limited to a maximum of 8". Any face metal extending beyond 8" must have two piece metal and two keeper strips.
- 3) Deck types vary between roof areas and buildings. Contractor must verify roof decks and apply details accordingly.
- 4) All sheet metal counterflashings shall be 24ga. Prefinished (owner to select color)

TITLE: Roof Replacement Project
COMPANY: City of Hastings
DATE: See Specification Package
SCALE: All bidding contractors must field measure

Solar on West Rink Roof: Work under this scope item shall include installation of new Solar PV system that will be tied into the building electrical system. The photo below represents the approximate location of the new system. Work shall be code compliant, and the final cost of this work shall be added to the Agreement by Amendment after scope of work is rebid and final price is established.





EXHIBIT B PAYMENTS SCHEDULE

X-B-01

Exhibit B – Estimated Payments Schedules

Item	Spring Roof Option	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	
1	Design	\$223,826	\$111,913	\$111,913														
2	Long Lead Equipment (MCC)	\$258,929			\$129,465								\$129,465					
3	Roofing	\$1,161,746						\$290,437				\$290,437	\$290,437	\$290,437				
4	Refrigeration	TBD									install	install	install	install	install	install	install	
5	Solar PV	TBD														install	install	
Totals		\$1,644,501	\$111,913	\$111,913	\$0	\$129,465	\$0	\$0	\$290,437	\$0	\$0	\$0	\$290,437	\$419,901	\$290,437	\$0	\$0	\$0

City of Hasting Roofing Project Bid Tab

Roofing Contractors	Berwald Roofing	Mc Phillips Bro	Peterson Bro	Palmer West
Base Bid	\$ 1,121,689	\$ 1,076,677	\$ 1,017,680	\$ 1,081,056
Ladder Add	\$ 16,592	\$ 16,930	\$ 15,395	\$ 15,689
Sub Total	\$ 1,138,281	\$ 1,093,607	\$ 1,033,076	\$ 1,096,745

Plumbing Contractors	Commercial Plumbing	Signature Mechanical
Base Bid	\$ 129,607	\$ 128,670

	Selected Contractors	
Total Cost	Peterson Bro	\$ 1,033,076
	Signature	\$ 128,670
	Total	\$ 1,161,746

City of Hasting Refrigeration Project Bid Tab

Refrigeration Contractors	Rink Tec International	Gartner Refrigeration	SCR
Base Bid	\$ 2,677,574	\$ 2,734,850	No Bid
MCC - Breakout	\$ 258,929	\$ 264,467	
Alt - Temp Chiller 3 Months	\$ 104,628	\$ 152,383	
Sub Total	\$ 2,782,202	\$ 2,887,233	

Mechanical Contractors	NAC	Kraft Mechanical	SCR
Base Bid	\$ 215,235	\$ 188,330	\$ 220,526

Electrical Contractors	CAP Electric	Phaser Electric
Base Bid	\$ 85,496	\$ 121,070

General Construction	Guptil Construction	4 Others no Bid
Base Bid	\$ 46,449	\$ -

Concrete Construction	Fritz Concrete	KPW Concrete
Base Bid	\$ 53,002	\$ 8,324

Fencing Contractors	Superior Fencing	Dakota Unlimited
Base Bid	\$ 9,664	\$ 11,784

Selected Contractors

Rink Tec International	\$ 2,782,202
Kraft Mechanical	\$ 188,330
CAP Electric	\$ 85,496
Guptil Construction	\$ 46,449
KPW Concrete	\$ 8,324
Superior Fencing	\$ 9,664

City of Hastings

AGREEMENT

HASTINGS CIVIC ARENA

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This Guaranteed Energy Savings Agreement (“Agreement”), is made by and between the City of Hastings, hereafter referred to as CLIENT with an office at 101 4th St. E, Hastings, MN 55033, and Apex Facility Solutions, LLC, with its principal place of business at 3495 Northdale Blvd., Suite 230, Coon Rapids, MN 55448 hereafter referred to as CONTRACTOR. CLIENT and CONTRACTOR may be referred to as “Party” or collectively as “Parties.”

1.0 Recitals

WHEREAS, the CLIENT is authorized under Minnesota Statutes Section 471.345 subd.13, the Statute, to enter into guaranteed energy savings agreements with a qualified provider not exceeding twenty years for the purpose of implementing comprehensive utility cost-savings measures to improve the energy efficiency of a municipal facility provided the cost of implementing the measures will not exceed the amount to be saved in utility operation and maintenance costs over a twenty year period and the qualified provider provides a written guarantee that the energy or operating cost savings will meet or exceed the cost of the system; and

WHEREAS, CONTRACTOR represents that it is qualified, willing and able to responsibly act as guarantor for energy, operational and maintenance cost savings (the “Savings”), and to provide or to arrange for long term debt financing as hereafter set forth;

WHEREAS, CLIENT has reviewed the Project Costs and Savings and believes it to be reasonable and accurate;

WHEREAS, CLIENT is authorized under the Statute to make payments required by the debt service obligation from the Savings obtained from the installation of the utility cost savings measures described herein; and

WHEREAS, CLIENT has published notice of, and held a meeting in which it proposed to award the contract, the names of the Parties to the proposed contract, and the contract's purpose.

NOW, THEREFORE, in consideration of the mutual benefits and obligations set forth herein, the Parties hereto agree as follows:

2.0 Definitions

The terms defined in this section shall, for all purposes of this Agreement, have the meaning herein specified.

“Acts of God” An Act of God is an unusual, extraordinary, and sudden manifestation of an event that could not under normal circumstances have been anticipated or expected. Ordinary weather conditions of normal intensity for the locality shall not be considered as an Act of God

“Change” shall mean substitutions, additions, or deletions within the scope of the Agreement as expressly approved in writing by CLIENT.

“Client’s Premises” shall mean any location where Work is occurring as defined by Exhibit A of this Agreement.

“Client’s Property” shall mean any material, equipment, machinery, or other items, owned, or controlled by the Client that are not Owned by the Contractor.

“Completion Date” shall mean the date on which CLIENT issues the Certificate of Final Completion. “Completion Date” shall also mean the “Date of Final Installation”.

“Contractor’s Property” shall mean any material, equipment, machinery, or other items, owned or controlled by the Contractor that are not Owned by the Client.

“Extra Work” shall mean work outside the scope of this Agreement.

“Facility” shall mean building or structure where Work under the Agreement occurs.

“Facility Improvement Measures” shall mean any improvement included in the Work as listed on the summary table in Exhibit A of this Agreement.

“Final Completion” shall mean that one or more Facility Improvement Measures as outlined in the summary table of Exhibit A have met requirements for Substantial Completion and all punch list items and documentation has been received.

“Guarantee Commencement Date” shall mean the Completion Date and the Date of Final Installation.

“Guarantee Term End Date” shall mean the date on which CONTRACTOR’s guarantee term ends.

“Guarantee Year” shall mean each twelve (12) month period during the term of this Agreement, beginning on the Completion Date.

“Measured and Verified Savings” shall mean utility cost savings calculated using utility consumption data recorded by utility meter(s).

“Parties” shall mean the Client and Contractor as defined in the first paragraph of the Agreement.

“Performance Assurance Services” shall mean services provided under the Technical Services Agreement section of Exhibit D of the Agreement.

“Premises” shall mean location where Work done under this agreement is occurring and is owned or controlled by the Client.

“Pre-agreed Savings” shall mean utility cost savings calculated using generally accepted engineering methods when actual measurements are impossible or not cost effective.

“Project” shall mean the Work or scope of work as outlined in Exhibit A of this Agreement.

“Substantial Completion” shall mean one or more Facility Improvement Measures as outlined in the summary table of Exhibit A has progressed to the point where, in the opinion of the CONTRACTOR as evidenced by his Certificate of Substantial Completion, it is sufficiently complete, in accordance with the contract documents, so that the Work can be utilized for the purposes for which it was intended; or if there be no such certificate issued, when final payment is due. The term “substantially complete” and “substantially completed” as applied to any work refer to Substantial Completion thereof.

“Technical Services Agreement” shall mean ongoing services provided after achievement of “Substantial Completion” as outlined in Exhibit D of the Agreement.

“Total Actual Savings” shall mean the sum of the reconciled utility cost savings, and the operation and maintenance cost savings.

“Utility Savings” shall mean the difference between the utility consumption under the pre-contract conditions and the utility consumption after the “Work” has been completed under the contract. Utility savings shall be calculated in comparison to an established baseline of utility consumption.

“Work” means activities set forth in Exhibit A.

“Working Days” means Monday through Friday excluding State holidays.

3.0 Order of Precedence

In case of conflict between provisions of this Agreement, the order of precedence for conflict resolution in descending order shall be as follows: (i) Change Orders, including amendments; (ii) the Agreement; and (iii) the Exhibits.

4.0 Exhibits

The following Exhibits are attached hereto and made a part hereof thereby:

- Exhibit A – Scope of Work
- Exhibit B – Schedule of Payments
- Exhibit C – Certificates of Substantial Completion & Final Acceptance
- Exhibit D – Facility Operating Parameters & Utility Savings Calculation Methods
 - Breakdown of Guarantee Savings
 - Summary of Guarantee Savings
 - Guarantee Reconciliation
 - Technical Service Agreement
- Exhibit E – Project Schedule
- Exhibit F – Contractor’s Measurement and Verification Responsibilities
- Exhibit G – CLIENT’s Maintenance Responsibilities
- Exhibit H – Insurance Coverage

5.0 Term of Agreement

Effective Date: The Effective Date of this Agreement shall be the date of City Council approval. CONTRACTOR shall not begin work under this Agreement until this Agreement is fully executed and CONTRACTOR has been notified by CLIENT’s contact to begin the Work.

Term: Unless otherwise terminated, this Agreement shall expire nineteen (19) years after the Completion Date.

6.0 Contacts

For the purpose of administration of this Agreement, the following individuals will be the contact personnel authorized to speak on behalf of the respective Parties.

CLIENT Contact: **Chris Jenkins, Park and Recreation Director**, (hereafter “CLIENT Contact”). CONTRACTOR shall render all services pursuant to this Agreement under the direction of the CLIENT Contact or the designated representative.

CONTRACTOR Contact: **Mark Rasmussen, Chief Operating Officer**, CONTRACTOR (hereafter "CONTRACTOR Contact"). CLIENT shall provide all the direction and supervision pursuant to this Agreement under the direction of the CONTRACTOR Contact or the designated representative.

7.0 Contractor's Duties

Design and Engineering: Contractor shall provide design, engineering and consulting services for the Work including preparation of Plans and Specifications, soliciting proposals for various components of the Work and providing management and oversight of the Work. CONTRACTOR shall work with CLIENT to identify subcontractors to include in the budgeting and pricing of the project. CONTRACTOR shall also work with CLIENT to review and analyze subcontractor quotes and jointly determine which subcontractors to include in the execution of the project.

Equipment and Materials: CONTRACTOR shall provide all materials, and equipment necessary to perform the Work. CONTRACTOR shall provide CLIENT with specifications, drawings, cut sheets, and other information required by CLIENT regarding the materials and equipment for review, acceptance and approval pursuant to Section 8.0 Acceptance, prior to implementation of the Work.

Installation Services: CONTRACTOR shall enter into all subcontracts necessary for the completion of the Work. CONTRACTOR shall provide CLIENT with specifications, drawings, and other information required by CLIENT regarding installation, replacement and refurbishment for review, acceptance, and approval pursuant to Section 8.0 Acceptance, prior to implementation of the Work. CONTRACTOR shall ensure that the installation, replacement, and refurbishment services are performed with minimum interruption to the normal business of the Facility. CONTRACTOR and subcontractors shall perform all Work under this Agreement according to the schedule set forth in each subcontract as generally described in Exhibit E.

8.0 Acceptance

Authority: The CLIENT Contact shall have final authority to review and approve specifications, drawings, and related documents concerning the Work prior to the solicitation of proposals or quotes, to review and approve subcontractors, to approve and accept all equipment, materials, and services, and to approve CONTRACTOR's invoices for payment. No approval by the CLIENT will act as a waiver of the CLIENT's rights hereunder or relieve CONTRACTOR of its obligations hereunder.

Construction Documents: During the construction period, CONTRACTOR shall keep copies of Construction Documents at the Facility for review by CLIENT at all reasonable hours and shall provide a complete set of as-built drawings to the CLIENT upon completion of each portion of the Work.

Satisfactory Performance: Within fifteen (15) Working Days of receipt of an invoice, CLIENT shall have the right to review the Work performed by CONTRACTOR on the Facility, for purposes of determining whether the Work is deemed satisfactory. Where CLIENT finds the Work performed by CONTRACTOR unsatisfactory, the CLIENT Contact shall provide CONTRACTOR with a written notice of unsatisfactory Work within fifteen (15) Working Days of its receipt of CONTRACTOR's invoice. CONTRACTOR shall cure the Work within ten (10) Working Days after receiving the CLIENT Contact's notice of unsatisfactory Work. When the invoiced Work has been completed to the satisfaction of the CLIENT Contact, the CLIENT Contact shall approve the invoice for payment.

Work Substantial Completion: Upon receipt of the written Notice of Substantial Completion documents by CONTRACTOR, the CLIENT Contact shall review all Work and all project completion documents within fifteen (15) Working Days. Upon approval of all Work and project completion documents, the CLIENT Contact shall send the dated Certificate of Substantial Completion to all Parties. A punch list shall be created by the Parties prior to issuance of Acceptance of Substantial Completion.

Work Final Completion: Upon receipt of the written Notice of Work Completion and project completion documents by CONTRACTOR (as described in Exhibit C), the CLIENT Contact shall review all Work and all project completion documents within fifteen (15) Working Days. Upon approval of all Work and project completion documents, the CLIENT Contact shall send the dated Certificate of Final Completion (Exhibit C) to all Parties. In the event the CLIENT reasonably determines that additional work is required to complete the project, it shall inform CONTRACTOR, and CONTRACTOR shall perform the additional work in accordance with a mutually agreed upon prompt schedule.

9.0 Change and Extra Work

Amendments of Agreement and Exhibits: The Parties expressly recognize, prior to the Completion Date, that there may be Change or Extra Work, either at the request of CLIENT, at the suggestion of CONTRACTOR, or as the result of an "act of God"; but in each event upon a mutual agreement that the proposed Change or Extra Work is proper. The Parties also recognize that the correct interpretation and administration of this Agreement depends in large part on the accuracy of all the exhibits attached hereto, which may need to be amended according to the type of Change or Extra Work agreed to by the Parties, and therefore the Parties agree to amend this Agreement or the exhibits hereto as appropriate to reflect the agreed upon Change or Extra Work. Any "Change" or "Extra Work" providing for price, energy savings guarantee, or project schedule adjustments or relief will be made in accordance with the procedures established herein.

CLIENT Initiated: CLIENT, at any time prior to the Completion Date, may propose "Changes" or "Extra Work" in writing. CONTRACTOR shall respond by submitting to CLIENT a proposed written proposal containing the initial cost, annual energy and annual utility, operational and maintenance cost savings, payback period, and a schedule for completion of the Change or Extra Work within ten (10) Working Days of CLIENT's request. CONTRACTOR shall perform the Changes or Extra Work only upon receipt of CLIENT's approval of the written proposal and after execution of an amendment to this Agreement when an amendment is required for performance of the Extra Work or Changes. Any Change or Extra Work performed by CONTRACTOR which is not approved by CLIENT in writing shall not be approved for payment and will not be included in the final scope of Work. The Parties will amend this Agreement accordingly.

CONTRACTOR Initiated: CONTRACTOR, at any time prior to the Completion Date, may propose "Changes" or "Extra Work" in writing. CONTRACTOR shall submit to CLIENT a written proposal that explains the circumstances for the change, initial cost, annual energy and utility, operational and maintenance cost savings, payback calculations and a schedule for completion of the Change or Extra Work. CLIENT may accept or reject the request within ten (10) Working Days. Failure by CLIENT to respond within ten (10) Working Days to the proposed change order shall be deemed a rejection by CLIENT. CONTRACTOR shall perform the Changes or Extra Work only upon approval by CLIENT and receipt of the written proposal, and after execution of an amendment

to this Agreement when an amendment is required for performance of the Extra Work or Changes. The Parties will amend this Agreement accordingly.

10.0 Compensation and Payment

Total Obligation: The CLIENT’s total obligation to CONTRACTOR under this Agreement, including compensation for goods, services, and reimbursable expenses, shall not exceed:

Design Work

Refrigeration System Design	\$217,391.00
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Construction Work

Refrigeration System Motor Control Center (long lead item)	TBD and added by Amendment
Refrigeration System	TBD and added by Amendment
Roof Replacement West Rink	TBD and added by Amendment
Solar on West Rink	TBD and added by Amendment

Invoices: CLIENT will pay CONTRACTOR after CONTRACTOR presents an invoice for the work completed and the CLIENT Contact accepts the invoice. Invoices must be submitted timely and according to the schedule contained in Exhibit B. Payment shall be made within 30 days following the receipt of a correct and proper invoice for the completed delivery of the product or services. If the invoice is incorrect, defective, or otherwise improper, CLIENT will notify CONTRACTOR within ten (10) Working Days of discovering the error.

Conditions of Payment: All services provided by CONTRACTOR under this Agreement must be performed to CLIENT’s satisfaction, in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. CONTRACTOR will not receive payment for Work found by CLIENT to be unsatisfactory or performed in violation of federal, state, or local law.

Retention: 5% retention shall be held by CLIENT on the Work excluding design. Upon receipt of CONTRACTOR’s written notice that the Work is ready for final inspection and acceptance, and upon receipt of the final pay application for a specific Facility Improvement Measure, the CLIENT will, within 10 working days, make such inspection, and when the CLIENT finds the work acceptable under the Contract Documents and the scope of work for the Facility Improvement Measure’s Final Completion, the CLIENT Contact shall approve final payment for the Finally Complete Facility Improvement Measure and release the retention associated with the Facility Improvement Measure according to the payment requirements outlined herein.

11.0 Contractor’s Energy Savings Guarantee

Guarantee Term: The term of CONTRACTOR’s Guarantee shall be the Term of the Agreement and shall survive any earlier cancellation or termination of this Agreement. CONTRACTOR’s guarantee will be terminated if the Technical Services Agreement – Performance Assurance Services are cancelled by the CLIENT or if the time after Substantial Completion exceeds the payback indicated on the summary table total line in Exhibit A.

Total Guaranteed Savings: CONTRACTOR guarantees that the amount to be saved in energy and operation costs over the term of this Agreement shall be at least the “Total Guaranteed Savings” as set forth in Exhibit D which Total Guaranteed Savings are sufficient to meet or exceed the total cost of the energy conservation measures.

Annual Meetings: CLIENT and CONTRACTOR shall meet at least once annually for the purpose of, reviewing utility loads, changes in utility rates, operating hours and maintenance issues of equipment installed under this Agreement, for the previous Guarantee Year. At each annual meeting, CLIENT will provide CONTRACTOR with the applicable utility rates for the previous Guarantee Year. The Parties agree to hold the Annual Meeting within thirty (30) Working Days after the final month of each Guarantee Year. In the event of chronic or material equipment failure, CLIENT and CONTRACTOR will meet within a reasonable time after a request by the CLIENT to discuss a timely cure for the failure.

Guarantee Reconciliation: While within the guaranteed term, CONTRACTOR shall perform a guarantee reconciliation at the end of each Guarantee Year and submit a guarantee reconciliation report with updated Exhibits D to the CLIENT Contact within forty-five (45) Working Days of each Guarantee Year anniversary, and at the Guarantee Term End Date. CONTRACTOR shall calculate the Total Actual Savings as set forth in Exhibit D for the immediately previous Guarantee Year. In the event that the Total Actual Savings realized by CLIENT are less than the Guaranteed Savings, CONTRACTOR shall remit an amount equal to such deficiency to CLIENT within forty-five (45) Working Days of the guaranteed reconciliation submittal.

Survival: This Section 11.0 survives the termination of the Agreement and terminates only upon presentation of the final Annual Report of the Technical Services Agreement by CONTRACTOR and final payment of any savings deficiencies if required. CONTRACTOR's guarantee will be terminated if the Technical Services Agreement is cancelled by the CLIENT.

12.0 Client Responsibilities

CLIENT agrees to perform the following tasks in addition to those set out in Exhibit G of this Agreement:

Daily Operations: After acceptance by CLIENT of the Work performed by CONTRACTOR, CLIENT shall be responsible for all routine maintenance as set out in the original equipment manufacturer's documentation provided by CONTRACTOR to the CLIENT. Exhibit D contains a set of operating parameters that need to be maintained to obtain the Utility Cost Savings and the Operation and Maintenance Cost Savings outlined in Exhibit D.

Automatic Functions: To protect public health and safety, or CLIENT property, CLIENT may manually override any automatic function provided by CONTRACTOR's equipment furnished hereunder or make changes in operating procedures specified. In that event, the Parties shall make the necessary changes to the established baseline.

CLIENT shall grant CONTRACTOR reasonable access to the Facility to perform CONTRACTOR's Verification Responsibilities.

Energy Management System: CLIENT shall provide standard energy management system reports to CONTRACTOR for Guarantee Reconciliation when requested by CONTRACTOR.

13.0 Insurance

CONTRACTOR shall maintain in full force and effect, at its expense, property, casualty, worker's compensation and liability insurance as specifically described in Exhibit I. The insurance is for the benefit of the Facility. In the

event of loss or damage to the property under this Agreement, loss payment will be made in favor of the Facility. Insurance will not be maintained after achievement of Final Completion for all Facility Improvement Measures.

14.0 Indemnification

CONTRACTOR shall defend, indemnify and save and hold harmless CLIENT, its elected officials, appointed officials, agents and employees, from and against any and all claims, demands, or causes of action, and damages, including all attorney's fees incurred by CLIENT, arising out of the performance of this Agreement by CONTRACTOR or CONTRACTOR's agent, employees, or subcontractors, except for gross negligence by CLIENT. This section shall not be construed to bar any legal remedies CONTRACTOR may have for CLIENT's failure to fulfill its obligations pursuant to this Agreement.

15.0 Performance and Payment Bonds

CONTRACTOR shall furnish all performance and payment bonds (the "Bonds"), each in amounts equal to the Construction Cost. The Bonds shall cover completion of the physical work per the approved design and shall not cover any design obligation or any guarantee or warranty of efficiency or system performance. The Bonds shall not cover any obligation of the contractor to ensure that the Work as constructed will result in any particular level of energy savings. Any suit on the Bonds must be brought within the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit. Payment Bond is intended for the use and benefit of all persons furnishing labor and materials who are engaged by CONTRACTOR. Performance Bond is intended for the use and benefit of the CLIENT to complete the Work as described in Exhibit A. These bonds shall be released within thirty (30) Working Days of the Completion Date. The surety for each such bond shall be an insurance company or corporate surety licensed to do business in the state of Minnesota. The bonds shall contain a provision requiring reasonable advance notice to CLIENT in the event that CONTRACTOR is in default of any obligation in relation to the bond.

16.0 Events of Default

Default by CLIENT. Each of the following events or conditions shall constitute an "Event of Default" by CLIENT:

- A. Failure to make payments in accordance with this Agreement.
- B. Any other material failure to perform or comply with the terms and conditions of this Agreement, including breach of any covenant or duty contained herein, provided that such failure continues for thirty (30) Working Days after written notice to CLIENT demanding that such failure to perform be cured or, if cure cannot be effected in such thirty (30) Working Days, without commencement of a cure and diligent subsequent completion thereof. In the event the default is cured within said periods, this Agreement shall remain in full force and effect

Default by CONTRACTOR: Each of the following events or conditions shall constitute an "Event of Default" by CONTRACTOR:

- A. The installation of the materials and equipment is not completed in a timely or satisfactory manner, according to the terms of this Agreement, provided however that CONTRACTOR shall have thirty (30)

Working Days from receipt of written notice that it is in default to cure said default. In the event the default is cured; this Agreement shall remain in full force and effect.

- B. Any representation or warranty furnished by CONTRACTOR in this Agreement, which is false or misleading in any material respect when made.
- C. Any other material failure by CONTRACTOR to perform or comply with the terms and conditions of this Agreement, including breach of any covenant or duty contained herein, provided that such failure continues for thirty (30) Working Days after written notice to CONTRACTOR demanding that such failure to perform be cured, or if cure cannot be effected in such thirty (30) Working Days, without commencement of a cure and diligent subsequent completion thereof. In the event the default is cured within said period, this Agreement shall remain in full force and effect.

17.0 Remedies Upon Default

Default by CLIENT. Upon the occurrence of an Event of Default by CLIENT, CONTRACTOR may elect to enforce one or more of the following remedies:

- A. Terminate this Agreement by delivery of a notice declaring termination, whereupon CONTRACTOR may enter the premises on which the Work is being performed and remove CONTRACTOR's Property;
- B. Seek damages in the amount of all payments, then or thereafter owing from CLIENT to CONTRACTOR pursuant to this Agreement, together with all costs and expenses reasonably incurred in exercise of its remedies (including reasonable attorneys' fees and court costs) in seeking and enforcing any or all of the remedies provided in this section;
- C. Seek specific performance of the terms and conditions of this Agreement to the extent permitted by law, including without limitation injunctive relief where appropriate; and/or
- D. Suspend further provision of the Work. If delivery of the Work has been suspended as a result of CLIENT's default and CLIENT and CONTRACTOR agree to arrange for the reinstatement of the delivery of the Work, CLIENT shall pay to CONTRACTOR a performance reinstatement fee in such amount or amounts, and payable on such date or dates as shall be reasonably acceptable to CONTRACTOR, as will reimburse CONTRACTOR for its actual costs (including overhead) to be incurred in reinstating delivery of the Work; provided, however, that nothing herein shall obligate CONTRACTOR to reinstate the delivery of Work.

Default by CONTRACTOR: Upon the occurrence of an Event of Default by CONTRACTOR, CLIENT shall have the right to:

- A. Terminate the Agreement by delivering a notice declaring termination (permitting CONTRACTOR to enter the Premises on which the work is being performed, and remove all CONTRACTOR's Property; and/or
- B. Seek specific performance of the terms and conditions of this Agreement to the extent permitted by law, including without limitation injunctive relief where appropriate;
- C. Seek damages in the amount of all payments, then or thereafter owing from CONTRACTOR to CLIENT pursuant to this Agreement, together with all costs and expenses reasonably incurred in exercise of its remedies (including reasonable attorneys' fees and court costs) in seeking and enforcing any or all of the remedies provided in this section;

18.0 Termination

For Uncured Breach: Either Party may terminate this Agreement thirty (30) days after written notice to the other Party of any material breach of this Agreement by such Party that has not been cured within such thirty (30) day period (an “Event of Default”). The notice must set forth the nature of the breach with reasonable specificity. Notwithstanding the foregoing, CONTRACTOR shall have the right to terminate this Agreement if CLIENT fails to pay any amounts due hereunder within five (5) working days after written notice.

Bankruptcy: In addition to Section 18.0 and any other rights it may have at law or in equity, either Party may terminate and without liability suspend all activity related to this Agreement immediately if the other Party is adjudicated a bankrupt, ceases to do business as a going concern, makes an assignment for the benefit of creditors, permits the appointment of a receiver, or otherwise avails itself of or becomes subject to any bankruptcy or insolvency statute.

19.0 General Provisions

Governing Law, Jurisdiction and Venue: This Agreement is governed by the laws of the State of Minnesota. The venue for any proceedings is agreed to be in CLIENT’s County, State of Minnesota, and CONTRACTOR consents to such jurisdiction. CONTRACTOR shall incorporate the requirements of this Section in its agreements with subcontractors, consultants, and independent contractors in connection with this Agreement.

Conditions Beyond Control of Parties: Neither Party will be responsible for any failure to comply with, or for any delay in performance of, the terms of this Agreement where the failure or delay is due to acts of God or the public enemy, war, riot, embargo, new tariffs, fire, explosion, sabotage, flood, strikes, labor disputes, default of subcontractors, accident; or, without limiting the foregoing, any circumstances of like or different character beyond its control (collectively, “Force Majeure Event”). If either Party is unable to perform under this Agreement for more than sixty (60) due to a Force Majeure Event, then the other Party may terminate this Agreement upon fifteen (15) days’ written notice.

Notices and Changes of Address: All notices to be given by either Party to the other shall be in writing and must be either delivered in person or mailed by registered or certified mail, return receipt requested, addressed as follows:

To CONTRACTOR:

Apex Facility Solutions, LLC
 3495 Northdale Blvd., Suite 230
 Coon Rapids, MN 55448
 Attn: **Mark Rasmussen**

To the CLIENT:

City of Hastings
 101 4th Street East
 Hastings, MN 55033
 Attn: Dan Wietecha, City Administrator

Or such other addresses as either Party may hereinafter designate by a written notice to the other.

Successors and Assigns: CONTRACTOR binds itself jointly and severally, his successors, executors, and administrators to CLIENT in respect to all covenants of this Agreement. CONTRACTOR shall not assign or transfer any part of its interest in this Agreement.

Permits: CONTRACTOR shall be responsible for obtaining all governmental permits, consents, and authorizations as may be required to perform its obligations hereunder unless otherwise specifically excluded by this Agreement.

Sewer Access Charges (SAC)/Water Access Charges (WAC): Client is responsible for any SAC or WAC changes required as a result of the Work.

Compliance by CONTRACTOR's Subcontractors and Consultants: CONTRACTOR shall provide and require in all of its contracts or subcontracts with other Parties who provide services in regard to performance of this Agreement that such subcontractors, consultants, or other Parties contracting with CONTRACTOR with regard to performance of this Agreement shall comply with those requirements of State law specified herein and otherwise required of persons performing work for the CLIENT of the type contemplated under this Agreement.

No Waiver: The failure of CONTRACTOR or CLIENT to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either Party's right to thereafter enforce the same in accordance with this Agreement in the event of a continuing or subsequent default on the part of CONTRACTOR or CLIENT. The waiver of any default by either Party shall not be deemed a continuing waiver but shall apply only to the instance to which such a waiver is directed.

Complete Agreement: This Agreement, when executed, together with all exhibits attached hereto as provided for by this Agreement, shall constitute the entire agreement between both Parties and this Agreement may not be amended, modified or terminated except in writing signed by the Parties hereto. The terms and conditions contained in this Agreement shall govern and shall take precedence over any different or additional terms and conditions which CONTRACTOR may have included in any documents attached to or accompanying this Agreement. Any handwritten changes on the face of this document shall be ignored and have no legal effect unless initialed by both Parties.

Severability: In the event that any clause or provision of this Agreement or any part thereof shall be declared invalid, void or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this Agreement unless the result would be manifestly inequitable or unconscionable.

Recitals: The background recitals set forth at the beginning of this Agreement are expressly incorporated into and made an integral part of the body of this Agreement and the terms of the Recitals fix the obligations of the Parties and are binding upon them in the same way and to the same extent as all other provisions of this Agreement.

AGREEMENT

X-B-01

Headings: The headings of all provisions are for ease of reference only. The headings in no way define, limit or describe the scope, intent or obligations of the provisions of this Agreement and therefore are not to be used in construing this Agreement.

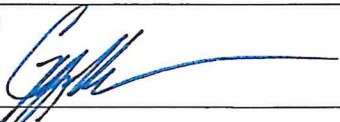
Amendments: Amendments to this Agreement shall be valid only if they are in writing and are signed by the same Parties, or their successors in office, who signed the original Agreement.

Limitations on Liability: In no event shall the Parties be liable to one another for any indirect, consequential, incidental, lost profits or like expectancy damages arising out of this Agreement.

Ownership of Works and Intellectual Property Rights: For the purposes of this paragraph, the term "Works" includes creative writings, research data and reports, writings, sound recordings, pictorial reproductions, drawings, film and video recordings, and other graphical representations, software, business methods, inventions, improvements, and discoveries, and works of any similar nature (whether or not eligible for copyright, trademark, patent or other proprietary rights), which are to be prepared for the CLIENT and delivered under this Agreement. It does not include any of CONTRACTOR's background intellectual property. Ownership of the Works and all copyrights, trademarks, patents and other proprietary rights in the Works shall be owned exclusively by CONTRACTOR. The CLIENT agrees that all copyrightable Works shall be considered a "work made for hire" and that the CONTRACTOR is the author of and owns all rights in and to the Works. Notwithstanding the foregoing, the CLIENT shall have a license to utilize the Works to maintain its equipment or to complete the Work in the event of a termination of CONTRACTOR for cause. The CLIENT shall not have a license to use the Works for any other project.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed intending to be bound thereby.

CONTRACTOR:

By:	
Its:	CEO / President

[Client signature page to follow.]

CLIENT:	
By: <i>Mary D Fasbender</i>	By: <i>Kelly Murtaugh</i>
Mary Fasbender, Mayor	Kelly Murtaugh, City Clerk

Attached Exhibits:



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: City Administrator Dan Wietecha
Date: August 21, 2023
Item: Administration of Absentee Ballots

Council Action Requested:

Support participating with Dakota County and other municipalities for administration of absentee ballots.

Background Information:

A workgroup with representatives from our election partners has been working over the summer to formulate a JPA cost-share plan, under which Dakota County Elections would perform absentee voting services. The actual draft of the JPA is pending, but Dakota County would appreciate knowing each municipalities intent, since the JPA is based on most/all municipalities participating.

The draft cost-share proposal is as follows:

1. A 2-year JPA between Dakota County and Cities and Townships.
2. Odd year School Districts will have a separate agreement for odd year service only. All special elections would also be subject to a separate agreement.
3. FTE costs form a base cost, which is proportioned by registered voter count. Base costs are shared annually, actual cost of absentee services would be paid in the year of election.
4. We have applied VOTER funds appropriated by the State to offset the costs of providing this service, so the reduction is reflected in this proposal.
5. For 2024 and future even-years, the cost-share model would be as follows:
 - a. County assumes 55% of base costs, Cities/Townships assume 45% of base costs
 - b. County assumes 55% of Absentee Voting costs, Cities/Townships assume 45% of Absentee Voting costs
6. For 2025 and future odd-years, the cost-share model would be as follows:
 - a. County assumes 75% of base costs, Cities/Townships assume 25% of base costs

- b. Odd-year election partners assume 100% of Absentee Voting costs (unless a shared election is held, in which case costs would be shared)
- 7. Estimated costs for 2024 (two elections) and 2025 are attached. Also attached is a high-level summary that reflects a 2-year cost for each city.

The Dakota County Elections Office believes this service has many benefits:

- It will ease the growing responsibility on City Clerks.
- It will streamline Election Night reporting as absentee ballots will already be at the County.
- It will enhance the voter experience to have consistent and uniform handling for absentee voting services across all jurisdictions.

In 2024, there will be three elections (Presidential Nominating Primary, Primary, General). Absentee balloting begins 46 days prior to any election. Even with the County handling administration of absentee ballots, the City will still have some staffing costs associated with Election Judges, such that the net savings is estimated at \$12K.

Financial Impact:

Estimate \$12K savings

Committee Discussion:

Not applicable

Attachments:

- 2024-2025 JPA Costs for Absentee Services (draft 8/7/23)
- 2024 Elections (draft 8/8/23)
- 2025 Elections (draft 8/8/23)

2024-2025 JPA Costs for Absentee Services - Draft 08/07/2023

Even Year			
Base Costs		Absentee Costs	
Dakota County Share	55%	Dakota County Share	55%
Partner Share	45%	Partner Share	45%

Odd Year			
Base Costs		Absentee Costs	
Dakota County Share	75%	Dakota County Share	0%
Partner Share	25%	Partner Share	100%

Municipality	# of Voters as of June 2, 2022	Base Cost Share (2024-2025)*	Estimated Absentee Balloting Cost (2024-2025)**	Reduction from Ongoing VOTER Funds***	Total Estimated Costs 2024-2025
ISD 196 - Rosemount/Apple Valley/Eagan	105,635	\$ 15,248	\$ 13,367		\$ 28,614
ISD 197 - West St. Paul/Mendota Heights/Eagan	29,698	\$ 4,287	\$ 4,576		\$ 8,863
ISD 199 - Inver Grove Heights	18,226	\$ 2,631	\$ 1,776		\$ 4,406
ISD 200 - Hastings	19,957	\$ 2,881	\$ 3,946		\$ 6,827
Lakeville	46,134	\$ 26,021	\$ 29,146	\$ (13,419)	\$ 41,747
Eagan	45,274	\$ 25,535	\$ 35,616	\$ (13,169)	\$ 47,982
Burnsville	37,883	\$ 21,367	\$ 26,194	\$ (11,019)	\$ 36,542
Apple Valley	35,735	\$ 20,155	\$ 26,339	\$ (10,395)	\$ 36,100
Inver Grove Heights	22,534	\$ 12,710	\$ 16,818	\$ (6,555)	\$ 22,973
Rosemount	17,245	\$ 9,727	\$ 13,405	\$ (5,016)	\$ 18,115
Hastings	14,571	\$ 8,218	\$ 8,704	\$ (4,238)	\$ 12,684
Farmington	13,844	\$ 7,808	\$ 8,008	\$ (4,027)	\$ 11,789
West St. Paul	12,523	\$ 7,063	\$ 7,706	\$ (3,643)	\$ 11,127
South St. Paul	12,190	\$ 6,875	\$ 4,987	\$ (3,546)	\$ 8,316
Mendota Heights	9,154	\$ 5,163	\$ 10,299	\$ (2,663)	\$ 12,800
Empire	2,017	\$ 1,138	\$ 573	\$ (587)	\$ 1,124
Ravenna Twp	1,731	\$ 976	\$ 705	\$ (504)	\$ 1,177
Eureka Twp	1,096	\$ 618	\$ 298	\$ (319)	\$ 598
Castle Rock Twp	983	\$ 554	\$ 226	\$ (286)	\$ 495
Northfield	967	\$ 545	\$ 871	\$ (281)	\$ 1,135
Vermillion Twp	933	\$ 526	\$ 226	\$ (271)	\$ 481
Marshan Twp	893	\$ 504	\$ 265	\$ (260)	\$ 509
Lilydale	801	\$ 452	\$ 763	\$ (233)	\$ 982
Nininger Twp	654	\$ 369	\$ 163	\$ (190)	\$ 341
Hampton Twp	633	\$ 357	\$ 148	\$ (184)	\$ 321
Greenvale Twp	613	\$ 346	\$ 236	\$ (178)	\$ 404
Randolph Twp	553	\$ 312	\$ 199	\$ (161)	\$ 350
Douglas Twp	523	\$ 295	\$ 115	\$ (152)	\$ 257
Sunfish Lake	436	\$ 246	\$ 250	\$ (127)	\$ 369
Hampton City	406	\$ 229	\$ 57	\$ (118)	\$ 168
Waterford Twp	378	\$ 213	\$ 155	\$ (110)	\$ 258
Sciota Twp	327	\$ 184	\$ 66	\$ (95)	\$ 156
Vermillion City	312	\$ 176	\$ 54	\$ (91)	\$ 139
Randolph City	286	\$ 161	\$ 33	\$ (83)	\$ 111
Mendota City	129	\$ 73	\$ 12	\$ (38)	\$ 47
Coates	101	\$ 57	\$ 226	\$ (29)	\$ 254
Miesville	86	\$ 49	\$ 292	\$ (25)	\$ 316
New Trier	56	\$ 32	\$ 112	\$ (16)	\$ 127
TOTAL	455,517	\$ 184,100	\$ 216,933	\$ (82,028)	\$ 319,005

*Base costs contemplate a Primary & General Election in even years and a General Election in odd years. PNP costs to be reimbursed separately from this agreement.
 **Used actual absentee voting utilization from past elections to estimate.
 ***Reduction of State VOTER funds is at the discretion of each municipality.

2024 Elections - Draft 08/08/2023

100% of FTE Costs	\$ 263,000	AB Mailed Cost	\$	10.00	AB DakCo Share	55%
Base costs proportioned by registered voter		AB In Person Cost	\$	4.50	AB Partner Share	45%
Base cost per reg voter	\$ 0.93					

				\$ 4.50	\$ 2.03	\$ 20,507	\$ 20,507		
Municipality	Voters as of June 2, 2022 (per VOTER Funding rules)	Proportion of Registered Voters	Annual Base Cost-share (45%)	Estimated Costs of AB Ballot mailed*	Estimated Costs of IP AB Ballot*	25% Reduction from Ongoing VOTER Funds for Proportioned # of Voters	25% Reduction from Ongoing VOTER Funds for AB	Total Estimated Costs - 2024	Estimated Cost Per Reg Voter
Lakeville	46,134	0.164	\$ 19,361	\$ 17,401	\$ 11,745	\$ (3,355)	\$ (3,355)	\$ 41,798	\$ 0.89
Eagan	45,274	0.161	\$ 19,001	\$ 21,263	\$ 14,353	\$ (3,292)	\$ (3,292)	\$ 48,032	\$ 1.07
Burnsville	37,883	0.134	\$ 15,899	\$ 15,638	\$ 10,556	\$ (2,755)	\$ (2,755)	\$ 36,583	\$ 0.98
Apple Valley	35,735	0.127	\$ 14,997	\$ 15,725	\$ 10,614	\$ (2,599)	\$ (2,599)	\$ 36,139	\$ 1.02
Inver Grove Heights	22,534	0.080	\$ 9,457	\$ 10,040	\$ 6,777	\$ (1,639)	\$ (1,639)	\$ 22,997	\$ 1.03
Rosemount	17,245	0.061	\$ 7,237	\$ 8,003	\$ 5,402	\$ (1,254)	\$ (1,254)	\$ 18,134	\$ 1.02
Hastings	14,571	0.052	\$ 6,115	\$ 5,197	\$ 3,508	\$ (1,060)	\$ (1,060)	\$ 12,700	\$ 0.87
Farmington	13,844	0.049	\$ 5,810	\$ 4,781	\$ 3,227	\$ (1,007)	\$ (1,007)	\$ 11,804	\$ 0.85
West St. Paul	12,523	0.044	\$ 5,256	\$ 4,601	\$ 3,106	\$ (911)	\$ (911)	\$ 11,141	\$ 0.90
South St. Paul	12,190	0.043	\$ 5,116	\$ 2,977	\$ 2,010	\$ (886)	\$ (886)	\$ 8,330	\$ 0.70
Mendota Heights	9,154	0.032	\$ 3,842	\$ 6,149	\$ 4,150	\$ (666)	\$ (666)	\$ 12,810	\$ 1.40
Empire	2,017	0.007	\$ 846	\$ 342	\$ 231	\$ (147)	\$ (147)	\$ 1,126	\$ 0.57
Ravenna Twp	1,731	0.006	\$ 726	\$ 409	\$ 276	\$ (126)	\$ (126)	\$ 1,159	\$ 0.67
Eureka Twp	1,096	0.004	\$ 460	\$ 142	\$ 96	\$ (80)	\$ (80)	\$ 539	\$ 0.49
Castle Rock Twp	983	0.003	\$ 413	\$ 135	\$ 91	\$ (71)	\$ (71)	\$ 496	\$ 0.50
Northfield	967	0.003	\$ 406	\$ 520	\$ 351	\$ (70)	\$ (70)	\$ 1,137	\$ 1.20
Vermillion Twp	933	0.003	\$ 392	\$ 135	\$ 91	\$ (68)	\$ (68)	\$ 482	\$ 0.53
Marshan Twp	893	0.003	\$ 375	\$ 142	\$ 96	\$ (65)	\$ (65)	\$ 483	\$ 0.54
Lilydale	801	0.003	\$ 336	\$ 455	\$ 307	\$ (58)	\$ (58)	\$ 982	\$ 1.26
Nininger Twp	654	0.002	\$ 274	\$ 97	\$ 66	\$ (48)	\$ (48)	\$ 342	\$ 0.52
Hampton Twp	633	0.002	\$ 266	\$ 88	\$ 60	\$ (46)	\$ (46)	\$ 321	\$ 0.52
Greenvale Twp	613	0.002	\$ 257	\$ 45	\$ 30	\$ (45)	\$ (45)	\$ 243	\$ 0.40
Randolph Twp	553	0.002	\$ 232	\$ 119	\$ 80	\$ (40)	\$ (40)	\$ 351	\$ 0.64
Douglas Twp	523	0.002	\$ 219	\$ 68	\$ 46	\$ (38)	\$ (38)	\$ 258	\$ 0.50
Sunfish Lake	436	0.002	\$ 183	\$ 149	\$ 101	\$ (32)	\$ (32)	\$ 370	\$ 0.86
Hampton City	406	0.001	\$ 170	\$ 34	\$ 23	\$ (30)	\$ (30)	\$ 169	\$ 0.40
Waterford Twp	378	0.001	\$ 159	\$ 85	\$ 57	\$ (27)	\$ (27)	\$ 245	\$ 0.65
Sciota Twp	327	0.001	\$ 137	\$ 40	\$ 27	\$ (24)	\$ (24)	\$ 156	\$ 0.46
Vermillion City	312	0.001	\$ 131	\$ 32	\$ 22	\$ (23)	\$ (23)	\$ 140	\$ 0.46
Randolph City	286	0.001	\$ 120	\$ 20	\$ 13	\$ (21)	\$ (21)	\$ 112	\$ 0.39
Mendota City	129	0.000	\$ 54	\$ 7	\$ 5	\$ (9)	\$ (9)	\$ 47	\$ 0.36
Coates	101	0.000	\$ 42	\$ 135	\$ 91	\$ (7)	\$ (7)	\$ 254	\$ 2.54
Miesville	86	0.000	\$ 36	\$ 175	\$ 118	\$ (6)	\$ (6)	\$ 316	\$ 3.85
New Trier	56	0.000	\$ 24	\$ 67	\$ 45	\$ (4)	\$ (4)	\$ 127	\$ 2.19
TOTAL	282,001	1.00	\$ 118,350	\$ 115,216	\$ 77,771	\$ (20,507)	\$ (20,507)	\$ 270,323	\$ 0.96

2025 Elections - Draft 08/08/2023

100% of FTE Costs \$ 263,000
 Costs proportioned by registered voter
 Base cost per registered voter \$ 0.58

AB Mailed Cost \$ **10.00** AB DakCo Share 0%
AB In Person Cost \$ **4.50** AB Partner Share 100%

Municipality	# of Voters for Base Costs	Proportion of Registered Voters for Base Costs	Voters as of June 2, 2022 (per VOTER Funding rules)	Proportion of Registered Voters for VOTER funds	Annual Base Cost (100%)	Annual Base Cost - 25 % Share	ABs Cast in Most Recent Election	\$ 10.00	\$ 4.50	\$ 20,507	\$ 20,507	Total Estimated Costs - 2025	Estimated Cost Per Reg Voter
								Estimated Costs of AB Ballot mailed*	Estimated Costs of IP AB Ballot*	25% Reduction from Ongoing VOTER Funds for AB	25% Reduction from Ongoing VOTER Funds for Proportioned # of Voters		
ISD 196 - Rosemount/Apple Valley/Eagan	105,635	0.232			\$ 60,990	\$ 15,248	1,995	\$ 7,980	\$ 5,387			\$ 28,614	\$ 0.27
ISD 197 - West St. Paul/Mendota Heights/Eagan	29,698	0.065			\$ 17,147	\$ 4,287	683	\$ 2,732	\$ 1,844			\$ 8,863	\$ 0.30
ISD 199 - Inver Grove Heights	18,226	0.040			\$ 10,523	\$ 2,631	265	\$ 1,060	\$ 716			\$ 4,406	\$ 0.24
ISD 200 - Hastings	19,957	0.044			\$ 11,522	\$ 2,881	589	\$ 2,356	\$ 1,590			\$ 6,827	\$ 0.34
Lakeville	46,134	0.101	46,134	0.164	\$ 26,636	\$ 6,659		\$ -	\$ -	\$ (3,355)	\$ (3,355)	\$ (51)	\$ (0.00)
Eagan	45,274	0.099	45,274	0.161	\$ 26,140	\$ 6,535		\$ -	\$ -	\$ (3,292)	\$ (3,292)	\$ (50)	\$ (0.00)
Burnsville	37,883	0.083	37,883	0.134	\$ 21,872	\$ 5,468		\$ -	\$ -	\$ (2,755)	\$ (2,755)	\$ (42)	\$ (0.00)
Apple Valley	35,735	0.078	35,735	0.127	\$ 20,632	\$ 5,158		\$ -	\$ -	\$ (2,599)	\$ (2,599)	\$ (39)	\$ (0.00)
Inver Grove Heights	22,534	0.049	22,534	0.080	\$ 13,010	\$ 3,253		\$ -	\$ -	\$ (1,639)	\$ (1,639)	\$ (25)	\$ (0.00)
Rosemount	17,245	0.038	17,245	0.061	\$ 9,957	\$ 2,489		\$ -	\$ -	\$ (1,254)	\$ (1,254)	\$ (19)	\$ (0.00)
Hastings	14,571	0.032	14,571	0.052	\$ 8,413	\$ 2,103		\$ -	\$ -	\$ (1,060)	\$ (1,060)	\$ (16)	\$ (0.00)
Farmington	13,844	0.030	13,844	0.049	\$ 7,993	\$ 1,998		\$ -	\$ -	\$ (1,007)	\$ (1,007)	\$ (15)	\$ (0.00)
West St. Paul	12,523	0.027	12,523	0.044	\$ 7,230	\$ 1,808		\$ -	\$ -	\$ (911)	\$ (911)	\$ (14)	\$ (0.00)
South St. Paul	12,190	0.027	12,190	0.043	\$ 7,038	\$ 1,760		\$ -	\$ -	\$ (886)	\$ (886)	\$ (13)	\$ (0.00)
Mendota Heights	9,154	0.020	9,154	0.032	\$ 5,285	\$ 1,321		\$ -	\$ -	\$ (666)	\$ (666)	\$ (10)	\$ (0.00)
Empire	2,017	0.004	2,017	0.007	\$ 1,165	\$ 291		\$ -	\$ -	\$ (147)	\$ (147)	\$ (2)	\$ (0.00)
Ravenna Twp	1,731	0.004	1,731	0.006	\$ 999	\$ 250	3	\$ 12	\$ 8	\$ (126)	\$ (126)	\$ 18	\$ 0.01
Eureka Twp	1,096	0.002	1,096	0.004	\$ 633	\$ 158	9	\$ 36	\$ 24	\$ (80)	\$ (80)	\$ 59	\$ 0.05
Castle Rock Twp	983	0.002	983	0.003	\$ 568	\$ 142		\$ -	\$ -	\$ (71)	\$ (71)	\$ (1)	\$ (0.00)
Northfield	967	0.002	967	0.003	\$ 558	\$ 140		\$ -	\$ -	\$ (70)	\$ (70)	\$ (1)	\$ (0.00)
Vermillion Twp	933	0.002	933	0.003	\$ 539	\$ 135		\$ -	\$ -	\$ (68)	\$ (68)	\$ (1)	\$ (0.00)
Marshan Twp	893	0.002	893	0.003	\$ 516	\$ 129	4	\$ 16	\$ 11	\$ (65)	\$ (65)	\$ 26	\$ 0.03
Lilydale	801	0.002	801	0.003	\$ 462	\$ 116		\$ -	\$ -	\$ (58)	\$ (58)	\$ (1)	\$ (0.00)
Nininger Twp	654	0.001	654	0.002	\$ 378	\$ 94		\$ -	\$ -	\$ (48)	\$ (48)	\$ (1)	\$ (0.00)
Hampton Twp	633	0.001	633	0.002	\$ 365	\$ 91		\$ -	\$ -	\$ (46)	\$ (46)	\$ (1)	\$ (0.00)
Greenvale Twp	613	0.001	613	0.002	\$ 354	\$ 88	24	\$ 96	\$ 65	\$ (45)	\$ (45)	\$ 160	\$ 0.26
Randolph Twp	553	0.001	553	0.002	\$ 319	\$ 80		\$ -	\$ -	\$ (40)	\$ (40)	\$ (1)	\$ (0.00)
Douglas Twp	523	0.001	523	0.002	\$ 302	\$ 75		\$ -	\$ -	\$ (38)	\$ (38)	\$ (1)	\$ (0.00)
Sunfish Lake	436	0.001	436	0.002	\$ 252	\$ 63		\$ -	\$ -	\$ (32)	\$ (32)	\$ (0)	\$ (0.00)
Hampton City	406	0.001	406	0.001	\$ 234	\$ 59		\$ -	\$ -	\$ (30)	\$ (30)	\$ (0)	\$ (0.00)
Waterford Twp	378	0.001	378	0.001	\$ 218	\$ 55	2	\$ 8	\$ 5	\$ (27)	\$ (27)	\$ 13	\$ 0.03
Sciota Twp	327	0.001	327	0.001	\$ 189	\$ 47		\$ -	\$ -	\$ (24)	\$ (24)	\$ (0)	\$ (0.00)
Vermillion City	312	0.001	312	0.001	\$ 180	\$ 45		\$ -	\$ -	\$ (23)	\$ (23)	\$ (0)	\$ (0.00)
Randolph City	286	0.001	286	0.001	\$ 165	\$ 41		\$ -	\$ -	\$ (21)	\$ (21)	\$ (0)	\$ (0.00)
Mendota City	129	0.000	129	0.000	\$ 74	\$ 19		\$ -	\$ -	\$ (9)	\$ (9)	\$ (0)	\$ (0.00)
Coates	101	0.000	101	0.000	\$ 58	\$ 15		\$ -	\$ -	\$ (7)	\$ (7)	\$ (0)	\$ (0.00)
Miesville	86	0.000	86	0.000	\$ 50	\$ 12		\$ -	\$ -	\$ (6)	\$ (6)	\$ (0)	\$ (0.00)
New Trier	56	0.000	56	0.000	\$ 32	\$ 8		\$ -	\$ -	\$ (4)	\$ (4)	\$ (0)	\$ (0.00)
TOTAL	455,517	1.00	282,001	1.00	\$ 263,000	\$ 65,750	\$ 3,574	\$ 14,296	\$ 9,650	\$ (20,507)	\$ (20,507)	\$ 48,682	\$ 0.11



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Dan Wietecha, City Administrator
Date: August 21, 2023
Item: 2024 Budget Pre-approval of Pick-up Trucks

Council Actions Requested:

Authorization to order 6 pick-up trucks for lease as part of 2024 budget.

Background Information:

Regarding the 2024 budget plan, there are supply chain delays that will impact a number of the items included in the proposed budget, and vehicle orders with state-bid pricing have early and short windows for ordering (which does not guarantee delivery and purchase). The window for ordering Dodge pick-up trucks through Enterprise is presently open without an identified closure date.

As we are changing our fleet management practice to replacing vehicles on a 5-year basis, the budget recommends purchasing some vehicles outright and leasing several vehicles in order to transition into the added upfront cost. All purchases and leases would be at state/consortium bid pricing. In addition to financing the lease, working through Enterprise Fleet Management gives us additional access to vehicle availability.

In order to avoid missing the window, I request authorization to order these 6 vehicles for lease as part of the 2024 budget recommendation.

Facilities Dept. – Pick Up Truck –\$11,000 lease per year plus \$6,000 upfitting, toolbox, and registration: The current 2007 pickup truck is 2-wheel drive which limits its ability for afterhours calls during winter.

Public Works Dept. – 5 Pick Up Trucks – \$55,000 per year lease plus \$35,000 upfitting, toolbox, liftgate (on one), and registration: The current pickup trucks are 2001, 2001, 2003, 2006, and 2007 models in the Streets and Engineering Departments.

Financial Impact:

Estimated \$66,000 annual lease plus \$41,000 upfitting, toolbox, liftgate (on one), and registration.

Committee Discussion:

N/A

Attachments:

N/A