

WACONIA CITY COUNCIL MEETING AGENDA



Monday, November 6, 2023
6:00 PM

VISION STATEMENT

A thriving, connected community with deep roots: a great place to live for a lifetime.

MISSION STATEMENT

A city that leads, serves, and governs to enhance the quality of life for all community members.

MAYOR: NICOLE WALDRON
COUNCIL MEMBER : RANDY SORENSEN
COUNCIL MEMBER: STEVE YETZER
COUNCIL MEMBER: NICK GLEASON
COUNCIL MEMBER: JEFF GRENGS

NOTE: TO ENSURE THAT YOU ARE PRESENT FOR ITEMS OF INTEREST, PLEASE BE PRESENT AT 6:00 P.M.

Those with items on the agenda should reach out to their staff contact. Others who wish to participate in the meeting, please contact the City Administrator at 952-442-3100 or sfineran@waconia.org to make certain that you are called upon during the meeting.

1. CALL MEETING TO ORDER AND ROLL CALL

2. PLEDGE OF ALLEGIANCE

3. ADOPT AGENDA

4. VISITOR'S PRESENTATIONS, PETITIONS, CORRESPONDENCE

- Christine Fenner, President - Waconia Area Chamber of Commerce: Destination Waconia Tourism
- John Zimmerman, Waconia Township Supervisor: North Shore Road Improvement Letter of Support

5. ADOPT CONSENT AGENDA

The items listed on the Consent Agenda are considered routine and non-controversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember, City Staff, or Citizen so requests; in which case, the item will be removed from the Consent Agenda and considered at the end of the Regular Agenda.

- 1) [October 16, 2023 Minutes](#)
Approve minutes from October 16, 2023 City Council Meeting
- 2) [November 6, 2023 Expenditures](#)
Payment of November 6, 2023 Expenditures
- 3) [CSAH 10 & Waconia Parkway N Intersection Project Easements](#)
Adopt Resolution #2023-225, Approving Acquisition of Easements for Waconia Parkway North/CSAH 10 Roundabout

- 4) [Valvoline Storm Water Drainage and Reuse Agreement](#)
Adopt Resolution #2023-226, Approving Storm Water Drainage and Reuse Agreement for Valvoline Property
Adopt Ordinance #766 Amending Chapter 415 Regarding Storm Water Reuse Systems
Adopt Resolution #2023-227, Approving Summary Publication of Ordinance Amending Chapter 415
- 5) [Local Road Improvement Grant Application](#)
Adopt Resolution #2023-228, Authorizing Submittal of LRIP Grant Application
- 6) [Sandy Shores - Development Agreement - Jeffery C. Helstrom](#)
Adopt Resolution #2023-229 approving the Development Agreement for Sandy Shores.
- 7) [Statewide Volunteer Firefighter Plan](#)
Adopt Resolution #2023-230, Approving Increase in benefit level for firefighters
- 8) [2024 Prosecution Contract](#)
Adopt Resolution #2023-231, Approving 2024 Prosecution Contract
- 9) [2024 GIS Analyst Shared Position Agreement with Carver County](#)
Adopt Resolution #2023-232, Approving Carver County GIS Analyst Position Agreement for 2024
- 10) [Authorize Hire for Administration Specialist](#)
Adopt Resolution #2023-233, Approving Administration Specialist Hire
- 11) [Ordinance 767 Amending Chapter 700 of City Code: Nuisances](#)
Adopt Ordinance #767- Amending Chapter 700 and Repealing Redundant Sections
Adopt Resolution #2023-234 - Authorizing Summary Publication of Ordinance #767
- 12) [Contract for Winter Towing & Impound Services](#)
Adopt Resolution #2023-235, Approving Contract with R&V Service & Towing LLC for Winter Towing & Impound Services
- 13) [Agreement for Auction Services](#)
Adopt Resolution #2023-236, Approving Agreement with Jeff Martin Auctioneers, Inc. for Auction Services
- 14) [Donation Acceptance - Cash Donation for Park Project](#)
Adopt Resolution #2023-237, Accepting Cash Donation for Park Project

6. COUNCIL BUSINESS

- 1) [Donation Acceptance - Cash Donations for City Square Park War Memorial Monument Restoration](#)
Adopt Resolution #2023-238, Accepting Cash Donations for City Square Park War Memorial Monument Restoration from Community Giving on Behalf of American Legion Post 150
- 2) [Variance - 483 Lakeview Terrace Boulevard](#)
Adopt Resolution #2023-239 approving a variance to demolish and construct a new home to 29.3% impervious surface versus the 25% maximum allowed in the Shoreland Overlay District.
- 3) [Winter Maintenance Policy Update](#)
Adopt Resolution #2023-240, Approving Winter Maintenance Policy Updates
- 4) [Growth Area Feasibility Study](#)
Adopt Resolution #2023-241, Authorizing Southeast Area Feasibility Study

7. ITEMS REMOVED FROM CONSENT AGENDA

8. STAFF REPORTS

9. BOARD REPORTS

- 1) Councilmember Sorensen
- 2) Councilmember Yetzer
- 3) Councilmember Gleason
- 4) Councilmember Grengs
- 5) Mayor Waldron

10. ANNOUNCEMENTS

11. ADJOURN REGULAR MEETINGOFFICE OF THE CITY ADMINISTRATOR

Shane Fineran

Work Session:

- Kirsch Sketch Plan Review
- General Fund Budget Update

UPCOMING CALENDAR OF EVENTS/MEETINGS:

- Veterans Day - November 10th (Observed, offices closed)
- Park Board - November 16th at 6:30 p.m.
- City Council - November 20th at 6:00 p.m.
- Thanksgiving & Day After Thanksgiving - November 23 & 24 (offices closed)



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		October 16, 2023 Minutes					
Originating Department:		Administration					
Presented by:		Jackie Schulze					
Previous Council Action (if any):							
Item Type (X only one):		Consent	X	Regular Session		Discussion Session	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Approve minutes from October 16, 2023 City Council Meeting							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Minutes from October 16, 2023 City Council Meeting are included on subsequent pages.							
<u>Attachments:</u>							
1. City Council Minutes 10162023.docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information: _____ Budgeted _____ Non Budgeted _____ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

CITY OF WACONIA
October 16, 2023

1) **CALL MEETING TO ORDER AND ROLL CALL**

Pursuant to due call and notice thereof, the regular meeting of the City Council of the City of Waconia was called to order by Mayor Waldron at 6:00 p.m. The following members were present: Nicole Waldron, Randy Sorensen, Steve Yetzer, Nick Gleason, Jeff Grengs.

Staff Present: Jackie Schulze, Lane Braaten, Justin Sorensen, Jake Saulsbury, Nicole Meyer, Mike Melchert, Tyler Stahn, Brenda Stein.

2) **PLEDGE OF ALLEGIANCE**

PUBLIC HEARING

2023 Downtown Reconstruction Project Assessment Public Hearing

Cover Page

2023-219 Approving Final Assessments

2023-10-16 Downtown Ph 1 Final Assmt Roll - revised (002).pdf

Special Benefit Consultation Report

Jake Saulsbury-Bolton Menk. Downtown Reconstruction Phase 1 Project Assessment Hearing.

Saulsbury presented the format of the Public Hearing which includes Project Scope, Project Schedule, Final Project Cost Summary and Assessments.

Saulsbury mentioned the remaining work that needs to be completed. Signage and lighting installation, paving, and striping along with a few punch list items. Project schedule dates show the 1st Phase completion will be in 2024. The final project breakdown was displayed. Property assessments show 26 properties to be assessed. Fineran mentioned as of today, the assessment for address 128 Main Street West was reduced.

Motion by Sorensen, seconded by Yetzer to open the Public Hearing. **MOTION CARRIED.**

No comments.

Motion by Sorensen, second by Grengs to close the Public Hearing. **MOTION CARRIED.**

Comments and Concerns:

Motion by Yetzer, seconded by Grengs to approve Resolution 2023-219 to adopt the Proposed Assessment. **MOTION CARRIED.**

Certification of Delinquent Charges for Payment with Taxes - Pay 2024

Cover Page

2023-224_Approving delinquent certifications UB-AR

Fineran presented the certification of delinquent charges for payment.

Questions regarding the list:

- Sorensen reconfirmed that all properties on the list have been notified.
- Are there additional charges to the certifications. Fineran stated there will be late charges added along with interest.

Motion by Sorensen, seconded by Grengs to open the Public Hearing. **MOTION CARRIED.**

Motion by Grengs, second by Yetzer to close the Public Hearing. **MOTION CARRIED.**

Motion by Sorensen, seconded by Gleason to approve Resolution 2023-224 to adopt the Certification. **MOTION CARRIED.**

3) ADOPT AGENDA

Motion by Gleason, second by to adopt the agenda. **MOTION CARRIED.**

4) VISITOR'S PRESENTATIONS, PETITIONS, AND CORRESPONDENCE

Mark Metz - Carver County Attorney.

Annual presentation on prosecution contracts and items happening in the attorney's office. Metz explained the determination of contract fees and the comparison between cities. Implementation of a new case management system and talked highly about treatment courts. Yetzer asked where the funds are coming from for these treatment courts. Metz stated they had received a significant grant and additional funding through the state.

Stephanie Alexandra- Executive Director of WeCAB.

WeCAB is Supplemental transportation for Carver County. Alexandra presented the fiscal numbers. A large percentage of riders have a Waconia address with only a very few drivers in the area. The service is completely volunteer with drivers using their own vehicle. Alexandra talked about WeCAB being unable to fulfill some requests because of

more people needing rides. Where do people find the information on WeCAB - Word of mouth, Facebook, Instagram, City's website and doing presentations.

The drivers go through a screening process, background check and training sessions.

Kristie Larson – Executive Director of Southern Valley Alliance.

Nonprofit organization that provides supportive services for victims of domestic violence in Scott and Carver Counties. Larson summarized the organization addressing the organizations Southern Valley works with. Additional housing and shelters are in great need. Support and community groups are offered both in person and virtual.

A new Domestic Advocacy Center is currently being built in downtown Shakopee with a completion date around the holidays.

5) [ADOPT CONSENT AGENDA](#)

5.1 [October 2, 2023 Minutes](#)

[Cover Page](#)

[10.2.23 Minutes](#)

5.2 [October 16, 2023 Expenditures](#)

[Cover Page](#)

[Council List-Expenditures 10.16.23 - Other.pdf](#)

[Council List-Expenditures 10.16.23 - Purchasing Card.pdf](#)

[Council List-Expenditures 10.16.23 - Regular.pdf](#)

5.3 [Rink Management Services Corporation Waconia Ice Arena Expenditures Incurred September 2023](#)

[Cover Page](#)

[Waconia Ice Bills & Applied Payments Sept 23.pdf](#)

5.4 [Rink Management Services Corporation Safari Island Community Center Expenditures Incurred September 2023](#)

[Cover Page](#)

[Safari Island - Bills & Applied Payments Sept 23.pdf](#)

5.5 [Contractor Pay Request #13 - New Fire Station](#)

[Cover Page](#)

[Waconia - Pay App #13 - September 2023.pdf](#)

- 5.6 Kraus Anderson Contractor Pay Request - New Fire Station

[Cover Page](#)

[5.2023.09 Waconia Fire Station.pdf](#)

- 5.7 Contractor Pay Request #5 - Waconia Downtown Reconstruction - Phase 1

[Cover Page](#)

[2023-10-11 Downtown Recon Ph 1 - Payment #5.pdf](#)

- 5.8 Contractor Pay Request #1-Final - Lakeview Terrace & Industrial Blvd Storm Sewer Project

[Cover Page](#)

[2023-10-09 LTB Storm Sewer Payment #1.pdf](#)

- 5.9 Call Public Hearing - Revision to City's Fee Schedule : Waconia City Code - Chapter 1100

[Cover Page](#)

- 5.10 Application for Exempt Permit for Waconia Hockey Association

[Cover Page](#)

[2023-220 Waconia Hockey Association Exempt Permit.doc](#)

- 5.11 Interlaken Village 3rd Addition - Development Agreement

[Cover Page](#)

[2023-221 Interlaken Village 3rd Addition DA](#)

[Interlaken Village 3rd Addition Development Agreement for Lot 1 Block 1 \(Draft 09-28-23\).pdf](#)

- 5.12 200 & 10250 10th Street East - Quit Claim Deed

[Cover Page](#)

[Resolution 2023-222 \(1 Page\)](#)

[Location Map \(1 Page\)](#)

[Quit Claim Deed \(2 Pages\)](#)

Nothing to add to the Consent Agenda.

No comments.

Motion by Yetzer, second by Grengs to adopt the Consent Agenda. **MOTION CARRIED.**

6) COUNCIL BUSINESS

6.1 Ordering Improvements for the 2024 Downtown Reconstruction Project

[Cover Page](#)

[2023-223 Order Improvements](#)

[2023-08-15 Downtown Recon Ph 2 Feasibility Report - reduced.pdf](#)

Saulsbury presented the next phase of the 2024 Downtown Reconstruction Project. 4/5 vote is needed on Resolution number 2023-223. Fineran mentioned staff is not recommending proceeding with the storm water reuse treatment and collection/distribution. Also, the off-street parking property owner changes will need to be dealt with at a later date. The middle block of Main Street has parking options. Saulsbury added that the cost of this project would be 5.6 million keeping in mind that the 2nd phase is 35% larger than phase 1 explaining some of the comparison differences.

Comments and concerns from the City Council Members:

- Businesses that will not have access.
- Concerns with the size of the project.
- Discussion regarding Nickle Dickle Day.
- Parking
 - The American Legion not having alley access.
- Completing phase 2 in two stages instead of 3 or 4 will help the cost.
- Reward for early completion of work.
- Questions about keeping the width on the south side of main street instead of the bump out.
- Take parallel parking away from homes on the north side of the middle block.
- Parking lot improvement off Elm and 1st Street.
- Safety around the park or closing the park.
- Concerns with the Food Shelf access
- Question where to park and the placement of the work trailer.

Waldron reconfirmed discussion items to consideration at a work session are the middle block parking, timing, and scope of work with incentives, and staging for Legion and Food shelf.

Melchert stated that if we materially change the scope of the project, that a new public improvement hearing. Melcher's recommendation is to add a conditional item to the resolution to remove city council findings that the two items deleted from the project as discussed, the feasibility study does not materially affect the scope of the project. After tonight, we will not be adding or deleting blocks from the project moving forward.

Motion by Grengs, second by Yetzer to adopt resolution number 2023-223 to amend that the two items deleted for the project-parking and reuse do not materially impact the scope of the project. **MOTION CARRIED.**

6.2 Closed Session

Cover Page

Next the City Council will enter a closed session pursuant to Minnesota Statutes Section 13D.05, subd.3 (b) to have a discussion with the City Attorney that is protected by the attorney-client privilege. The discussion will relate to how the City should handle the lawsuit titled JMH Land Development Company LLC v Siegle Family Limited Partnership, where one of the parties is seeking to assert claims against the City of Waconia.

Motion by Sorensen, seconded by Yetzer to move to close session. **MOTION CARRIED.**

Motion by Sorensen, second by Yetzer to adjourn the closed session. **MOTION CARRIED.**

- 7) ITEMS REMOVED FROM CONSENT AGENDA
- 8) STAFF REPORTS
- 9) BOARD REPORTS
- 10) ANNOUNCEMENTS
- 11) **ADJOURN REGULAR MEETING**

Motion Grengs, seconded by Gleason to adjourn the meeting. **MOTION CARRIED.**

Work Session:

UPCOMING CALENDAR OF EVENTS/MEETINGS:

Nicole Waldron, Mayor

ATTEST: _____

Brenda Stein, Office Assistant



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		November 6, 2023 Expenditures					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):		Consent	X	Regular Session		Discussion Session	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Payment of November 6, 2023 Expenditures							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Attached is the claim and disbursements registers for the City of Waconia as of November 6, 2023. Payments are made to vendors via check, electric payment, and through the City's purchasing card program.							
<u>Attachments:</u>							
1. Council List-Expenditures 11.06.23.pdf							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information: _____ Budgeted _____ Non Budgeted _____ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

I have reviewed the list of claims for council approval and recommend payment.



Nicole Meyer, Finance Director

CITY OF WACONIA
Council List-Expenditures
Meeting: November 6, 2023

VENDOR NAME	DESCRIPTION	AMOUNT	FUND / DEPARTMENT
AMERICAN ENGINEERING TESTING, INC.	Downton Recon - Phase 1	\$9,560.50	PIR Fund
AMERICAN ENGINEERING TESTING, INC.	Street Sweep Hazardous Waste	\$1,164.00	Storm Water Fund
BOLTON & MENK, INC	1 Collision Addition	\$101.50	PIR Fund
BOLTON & MENK, INC	2022 Improvement Project	\$760.00	PIR Fund
BOLTON & MENK, INC	2022 Improvement Project	\$190.00	Water Utility Fund
BOLTON & MENK, INC	2022 Improvement Project	\$118.75	Sewer Utility Fund
BOLTON & MENK, INC	2022 Improvement Project	\$118.75	Storm Water Fund
BOLTON & MENK, INC	2023 Infrastructure Improve	\$8,588.25	PIR Fund
BOLTON & MENK, INC	2023 Infrastructure Improve	\$2,862.75	Storm Water Fund
BOLTON & MENK, INC	2023 Pond Cleanings	\$3,026.75	Storm Water Fund
BOLTON & MENK, INC	2024 Infrastructure Improve	\$684.00	PIR Fund
BOLTON & MENK, INC	2024 Infrastructure Improve	\$76.00	Storm Water Fund
BOLTON & MENK, INC	Anderson Property Development	\$423.50	PIR Fund
BOLTON & MENK, INC	Apartment Industrial Blvd Site	\$101.50	PIR Fund
BOLTON & MENK, INC	Cardinal Property Development	\$801.50	PIR Fund
BOLTON & MENK, INC	CSAH 10 & Waconia Pkwy North	\$34,810.20	PIR Fund
BOLTON & MENK, INC	CSAH 10 & Waconia Pkwy North	\$3,867.80	Storm Water Fund
BOLTON & MENK, INC	Downtown Recon - Phase 1	\$15,250.53	PIR Fund
BOLTON & MENK, INC	Downtown Recon - Phase 1	\$4,485.45	Water Utility Fund
BOLTON & MENK, INC	Downtown Recon - Phase 1	\$2,691.27	Sewer Utility Fund
BOLTON & MENK, INC	Downtown Recon - Phase 1	\$7,475.75	Storm Water Fund
BOLTON & MENK, INC	Downtown Recon - Phase 2	\$1,568.37	PIR Fund
BOLTON & MENK, INC	Downtown Recon - Phase 2	\$470.51	Water Utility Fund
BOLTON & MENK, INC	Downtown Recon - Phase 2	\$313.68	Sewer Utility Fund
BOLTON & MENK, INC	Downtown Recon - Phase 2	\$784.19	Storm Water Fund
BOLTON & MENK, INC	Falk Property Development	\$507.50	PIR Fund
BOLTON & MENK, INC	Fire Station Construction	\$2,006.50	PIR Fund

CITY OF WACONIA
Council List-Expenditures
Meeting: November 6, 2023

VENDOR NAME	DESCRIPTION	AMOUNT	FUND / DEPARTMENT
BOLTON & MENK, INC	Hwy 5 Phase 2 Improvements	\$9,300.71	PIR Fund
BOLTON & MENK, INC	Hwy 5 Phase 2 Improvements	\$1,328.68	Water Utility Fund
BOLTON & MENK, INC	Hwy 5 Phase 2 Improvements	\$1,328.68	Sewer Utility Fund
BOLTON & MENK, INC	Hwy 5 Phase 2 Improvements	\$1,328.68	Storm Water Fund
BOLTON & MENK, INC	Kirsch Property Development	\$333.00	Planning
BOLTON & MENK, INC	Lakeview Terrace Blvd Storm	\$3,720.00	Storm Water Fund
BOLTON & MENK, INC	Met Council I & Surcharge Prog	\$203.00	Sewer Utility Fund
BOLTON & MENK, INC	Miscellaneous Engineering	\$1,414.50	Administration
BOLTON & MENK, INC	Miscellaneous Engineering	\$90.00	Planning
BOLTON & MENK, INC	Miscellaneous Engineering	\$330.00	Streets
BOLTON & MENK, INC	Miscellaneous Engineering	\$738.00	Parks
BOLTON & MENK, INC	Miscellaneous Engineering	\$195.00	Storm Water Fund
BOLTON & MENK, INC	New Creations Daycare	\$1,037.00	PIR Fund
BOLTON & MENK, INC	Orchard Park Development	\$717.50	PIR Fund
BOLTON & MENK, INC	Shores of Lake Waconia East	\$248.50	PIR Fund
BOLTON & MENK, INC	Siegle Property Development	\$147.00	PIR Fund
BOLTON & MENK, INC	Sparrow Road Kwik Trip	\$147.00	PIR Fund
BOLTON & MENK, INC	The Otto Apartments Trail	\$3,220.00	PIR Fund
BOLTON & MENK, INC	Valvoline	\$203.00	PIR Fund
BOLTON & MENK, INC	Waconia Parkway South Imp	\$338.40	PIR Fund
BOLTON & MENK, INC	Waconia Parkway South Imp	\$59.22	Water Utility Fund
BOLTON & MENK, INC	Waconia Parkway South Imp	\$25.38	Storm Water Fund
BOLTON & MENK, INC	Waterford Park	\$178.00	Storm Water Fund
BOLTON & MENK, INC	Well #9	\$5,309.50	Water Utility Fund
BOLTON & MENK, INC	Woodland Creek	\$1,510.00	PIR Fund
CARVER COUNTY	Fines/Prosecution Qtr 3/2023	\$4,182.24	Administration
CARVER COUNTY	Fines/Prosecution Qtr 3/2023	\$5,813.24	Law Enforcement
CARVER COUNTY COMMUNITY DEVELOPMENT	CH Dual Property Insurance	\$8,467.28	Central Facilities
CCP NI MASTER TENANT 4, LLC	Solar Electric 09.2023	\$1,066.68	Central Facilities
CCP NI MASTER TENANT 4, LLC	Solar Electric 09.2023	\$21.11	Water Utility Fund
CCP NI MASTER TENANT 4, LLC	Solar Electric 09.2023	\$1,024.08	Sewer Utility Fund
CCP NI MASTER TENANT 4, LLC	Solar Electric 09.2023	\$495.86	Street Light Utility Fund

CITY OF WACONIA
Council List-Expenditures
Meeting: November 6, 2023

VENDOR NAME	DESCRIPTION	AMOUNT	FUND / DEPARTMENT
C-D PRODUCTS, INC.	Land For Sale Sign	\$850.00	Central Facilities
CHOICE ELECTRIC INC	Grandstand Fiber Install	\$6,948.85	Parks
CHOICE ELECTRIC INC	Install HDPE for Irrigation	\$6,288.50	Storm Water Fund
CHOICE ELECTRIC INC	Install Outdoor Outlet	\$557.67	Parks
CHOICE ELECTRIC INC	Replace Faulty GFI Receptacles	\$494.03	Parks
CHOICE ELECTRIC INC	SI Flag Pole Light Replacement	\$712.00	Safari Island Fund
CHOICE ELECTRIC INC	Waconia Parkway South Project	\$872.40	PIR Fund
CHOICE ELECTRIC INC	Waterford Parking Lot	\$74,310.00	PIR Fund
CUSTOM FIRE APPARATUS INC.	Hose Tarp	\$137.69	Fire
ESCAPE FIRE PROTECTION	Duplicate Permit Refund	\$0.50	Building Permit Surcharge
ESCAPE FIRE PROTECTION	Duplicate Permit Refund	\$70.29	Building Inspections
EVOQUA WATER TECHNOLOGIES LLC	Bioxide Storage Lease 10.2023	\$2,105.00	Sewer Utility Fund
EVOQUA WATER TECHNOLOGIES LLC	LS Bioxide Treatment-284/SE/52	\$10,079.16	Sewer Utility Fund
FIRST DUE	Fire Software	\$570.00	Technology
JOHN HENRY FOSTER	Air Compressor Piping Install	\$2,923.00	Streets
KTJ636 LLC	Escrow Balance Refund	\$18,600.00	PIR Fund
LEAGUE OF MN CITIES INSURANCE TRUST	EE Claim #491959	\$176.55	Parks
LOCAL GOVERNMENT INFORMATION SYSTEMS	LOGIS Monthly Support Fee	\$5,577.00	Technology
LOCKRIDGE GRINDAL NAUEN P.L.L.P.	Legislative Contract Service	\$3,333.33	PIR Fund
MARCO TECHNOLOGIES, LLC	Azure Subscript 09.16-10.15.23	\$40.38	Technology
MARCO TECHNOLOGIES, LLC	Cisco Insights 10.16-11.15.23	\$210.00	Technology
MARCO TECHNOLOGIES, LLC	Install Fortinet Firewall	\$2,512.50	Technology
MARCO TECHNOLOGIES, LLC	Unify It On Demand 10.18-11.17	\$766.23	Technology
MARTIN MARIETTA MATERIALS	Tack Oil	\$200.00	Streets
MONROE TOWMASTER LLC	#52 Under Chassis	\$3,173.00	Streets
MONROE TOWMASTER LLC	Under Chassis Mount & Curb Run	\$3,659.00	Streets
NCPERS GROUP LIFE INS.	Premiums 11.2023	\$64.00	Personnel Liabilities
NORTHERN STATES POWER COMPANY, MINNESOTA	Temp Electric Fire Station Prj	\$85.54	PIR Fund
NOVEL SOLAR THREE LLC	Solar Electric 08.2023	\$3,938.30	Central Facilities
NOVEL SOLAR THREE LLC	Solar Electric 08.2023	\$6,384.13	Water Utility Fund
NOVEL SOLAR THREE LLC	Solar Electric 08.2023	\$2,920.77	Sewer Utility Fund
NOVEL SOLAR THREE LLC	Solar Electric 08.2023	\$828.88	Storm Water Fund

CITY OF WACONIA
Council List-Expenditures
Meeting: November 6, 2023

VENDOR NAME	DESCRIPTION	AMOUNT	FUND / DEPARTMENT
NOVEL SOLAR THREE LLC	Solar Electric 08.2023	\$440.54	Street Light Utility Fund
NOVEL SOLAR THREE LLC	Solar Electric 08.2023	\$5,582.71	Ice Arena
NUSS EQUIPMENT GROUP LLC	#35 Strap	\$266.85	Sewer Utility Fund
PAVE DRAIN, LLC	2023 Alley Improvement Project	\$17,940.00	Storm Water Fund
PERA	2023 Contribution to Pension	\$10,000.00	Fire
SENIOR COMMUNITY SERVICES	Senior Center Support Services	\$4,114.42	Recreation
SIR LINES-A-LOT	JPA Traffic Markings	\$2,133.00	Streets
SOLDO CONSULTING, P.C.	Work Environment Assessment	\$2,066.45	Streets
SOLDO CONSULTING, P.C.	Work Environment Assessment	\$2,066.45	Parks
SOLDO CONSULTING, P.C.	Work Environment Assessment	\$2,066.45	Water Utility Fund
SOLDO CONSULTING, P.C.	Work Environment Assessment	\$2,066.45	Sewer Utility Fund
SOLDO CONSULTING, P.C.	Work Environment Assessment	\$2,066.44	Storm Water Fund
SOLUTION BUILDERS, INC	SharePoint Intranet Site Trng	\$480.00	Technology
STORMS WELDING & MFG INC	#36 Rebuild Wing Mount	\$3,114.37	Streets
THE JAMAR COMPANY	PW Roof Sealant Repairs	\$1,450.00	Central Facilities
USA SECURITY, INC.	Employee Badges	\$8.13	Central Facilities
WILSON'S NURSERY INC.	2022 Recon Project Trees	\$3,964.80	PIR Fund
WM MUELLER & SONS INC	3/8" Virgin Fine Gravel	\$3,056.00	Streets
WM MUELLER & SONS INC	Super Pave Wear Mix	\$856.99	Water Utility Fund
ZIEGLER INC	#165 Engine Oil Filler Cap	\$59.52	Streets
Grand Total		\$380,519.01	

The above bills have been approved for payment at the regular City Council Meeting on November 6, 2023.

Authorized and ordered for payment:

Mayor

City Administrator



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		CSAH 10 & Waconia Parkway N Intersection Project Easements					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):							
Item Type (X only one):	Consent	☒ X	Regular Session	☐	Discussion Session	☐	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-225, Approving Acquisition of Easements for Waconia Parkway North/CSAH 10 Roundabout							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Earlier this year the City authorized engagement with Henning Professional Services to complete acquisition of right of way necessary for the CSAH 10 & Waconia Parkway N project slated for 2024. This work is underway and nearing completion with ROW of way needs identified, reports and study completed for the acquisition, and easement documents drafted. Attached is the approving resolution related to the easement acquisition for permanent and temporary easement needed to complete the roadway project. Once approved presentation and negotiation with property owners will commence. In addition the township road extension of Waconia Parkway N that extends to the west of CSAH 10 and will ask that the County assume control of this segment since it falls within the township boundary following completion of the project. The anticipated total right of way acquisition is estimated at \$125,000 and includes contingency recommended by Henning Professional Services. Per the executed JPA with Carver County and in conformance with their cost participation policy right of way acquisition costs will be split evenly between the two parties.							
<u>Attachments:</u>							
1. 11.06 Resolution 2023-225.docx 2. Project Image.pdf							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
PIR							
Budget Information:				Planning Commission			
☒ X Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-225**

**RESOLUTION APPROVING ACQUISITION OF
EASEMENTS FOR
WACONIA PARKWAY NORTH/CSAH 10 ROUNDABOUT
PROJECT**

WHEREAS, the City of Waconia, Minnesota (the "City") and Carver County, Minnesota (the "County") desire to construct a road roundabout and associated drainage/utility improvements (the "Project") at the intersection of Waconia Parkway North and County State Aid Highway No. 10, which project area lies within and adjacent to the City limits (the "Project"); and

WHEREAS, the City and the County have entered into a Joint Powers Agreement for Construction on County State Aid Highway 10 regarding the Project (the "Joint Powers Agreement"); and

WHEREAS, pursuant to the Joint Powers Agreement, the City has authority to acquire the easements and fee title acquisitions, if any, needed for the Project; and

WHEREAS, the City Engineer has completed the engineering required for the Project and, as part of such work, has determined the following easements are needed for the construction of the Project (collectively, the "Project Easements"):

Permanent right-of-way easements over parcels with Parcel Identification Numbers ("PIDs") 754920510, 755070180, 090151010, and 7550701090 (the "Right-of-Way Easements");

Permanent easements for drainage and utility purposes over PIDs 755070180 and 7550701090 (the "D&U Easements");

Temporary construction easements over PIDs 090150700, 754920510, and 090151010 (the "Temporary Construction Easements"); and

WHEREAS, the City Engineer has further determined a segment of township road exists within the Project area (the "Township Road Segment"); and

WHEREAS, the City Council has reviewed the work of the City Engineer and finds: i) the acquisition of the Project Easements are necessary for the Project; ii) it is in the best interests of the City and its residents to acquire the Project Easements to facilitate the Project; and iii) the City should request the County to assume control of the Township Road Segment; and

WHEREAS, the City Council further finds the Project Easements are needed for a public purpose whereas they relate to Waconia Parkway North and County State Aid Highway 10, which are public roads; and

WHEREAS, the City has received market value appraisals of the Project Easements prepared by Kelly Lindstrom, a licensed real estate appraiser; and

WHEREAS, based on the appraisals prepared by Kelly Lindstrom, the City Council finds it is appropriate to authorize a total maximum expenditure of \$127,000 (the "Consideration") for the acquisition of all Project Easements, including payments for any damages; and

WHEREAS, draft Project Easements are attached as Exhibits 1 through 10 (collectively, the "Project Documents");

WHEREAS, the City Council finds the form of the Project Documents acceptable; and

WHEREAS, pursuant to Minnesota Statutes §462.356, subd. 2, the City Council finds that the acquisitions of the Project Easements have no relationship to the City's comprehensive municipal plan and that the City may dispense with the requirements of Minnesota Statutes §462.356, subd. 2, to the extent such requirements apply.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Waconia, Minnesota:

1. The above recitals and findings are incorporated as resolutions of the City Council including, but not limited to, the finding that the City is acquiring the Project Easements for a public purpose.
2. The City Administrator and his designated representatives are authorized: i) to offer and pay, on the City's behalf, the Consideration for the acquisition of the Project Easements; ii) to expend all other sums the City is required to pay under the Joint Powers Agreement in connection with the acquisition of the Project Easements; iii) to also advance funds on the County's behalf in connection with the acquisition of the Project Easements and to seek reimbursement for any funds advanced on the County's behalf; and iv) to request the County to assume control of the Township Road Segment.
3. In addition to payment of the Consideration, the City Administrator and his designated representatives may expend funds on behalf of the City incidental to the acquisition of the Project Easements including, but not limited to, funds used to pay for costs associated with engineering, title examination, preparation of legal descriptions, preparation of documents, and recording fees.
4. The Mayor, City Clerk, and City Administrator, or any of them, are authorized to execute and deliver on behalf of the City the Project Documents and any other documents necessary to acquire the Project Easements, provided such easements and parcels can be acquired for the Consideration recited in this resolution and further provided the final Project Documents are acceptable to the City Administrator and City Attorney. The Project Documents are approved, subject to such revisions as the City Administrator and City Attorney may deem desirable.

The execution of any document or instrument by the appropriate officer or officers of the City shall be conclusive evidence of the approval of such document or instrument in accordance with the terms of this resolution.

- 5. The City Staff and its legal counsel may, upon compliance with statutory prerequisites, take all steps necessary to commence eminent domain to acquire any or all of the Project Easements for which negotiated settlements cannot be reasonably reached. The City shall comply with all appraisal and negotiation requirements and other conditions precedent to commencement of eminent domain of the Project Easements. City Staff and legal counsel are authorized and empowered to file quick take notices as necessary.

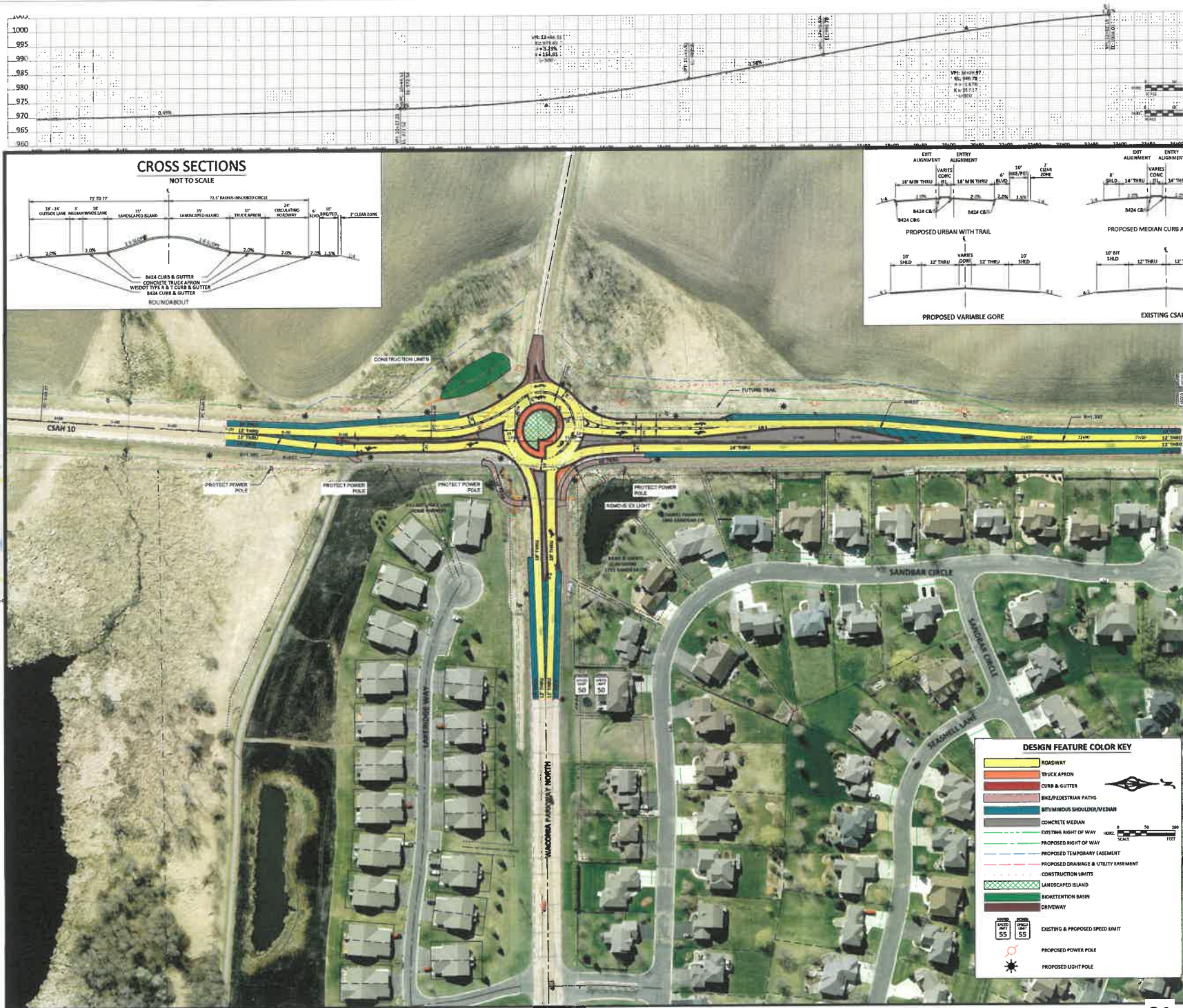
Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

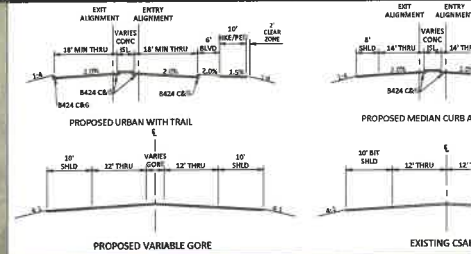
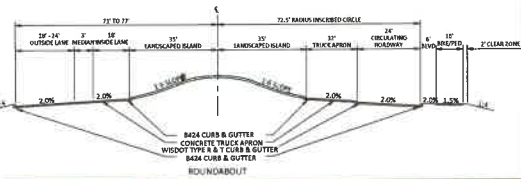
WACONIA PKWY & CSAH 10 ROUNDBOUT

Waconia, Minnesota
January 2021

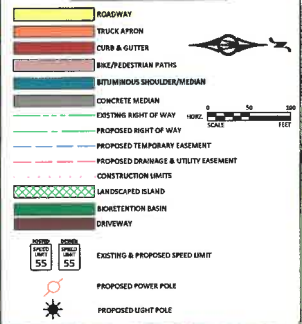


CROSS SECTIONS

NOT TO SCALE



DESIGN FEATURE COLOR KEY





REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Valvoline Storm Water Drainage and Reuse Agreement					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):							
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-226, Approving Storm Water Drainage and Reuse Agreement for Valvoline Property Adopt Ordinance #766 Amending Chapter 415 Regarding Storm Water Reuse Systems Adopt Resolution #2023-227, Approving Summary Publication of Ordinance Amending Chapter 415							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
A site plan has been approved for the Ilex Group, Inc. to develop a Valvoline oil change service center located at 840 Marketplace Drive. The location of the development allows for connection to the 10th Street storm water re-use system to meet water quality requirements. The development will construct volume control measures onsite to provide 1,016 cubic feet in volume control and the irrigation connection will provide for the development to meet water quality requirements of treatment to .56 acres of impervious surface related to watershed permitting. The irrigation system connection which allows for water quality requirements to be met will generate 2,083 of credit with 1,067 of those credits to be reclaimed by the 10th Street System to be utilized by the City for future use. The development will pay for the material and staff time to connect to the irrigation system and be billed for irrigation use.							
<u>Attachments:</u>							
1. 2023-226 Resolution Approving Valvoline Reuse Agreement.docx 2. Ordinance 766 Storm Water.docx 3. 2023-227 Summary Publication Resolution Valvoline.docx 4. Reuse Agreement for Valvoline.docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
_____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

CITY OF WACONIA
RESOLUTION NO. 2023-226

RESOLUTION APPROVING STORM WATER DRAINAGE AND REUSE AGREEMENT
FOR VALVOLINE PROPERTY

WHEREAS, pursuant to Chapter 415 of the Waconia City Code (“Chapter 415”), the City of Waconia (the “City”) has established a storm water reuse system known as the 10th Street Regional Pond System (the “Reuse System”); and

WHEREAS, certain property owners near the Reuse System (as designated in Section 415.04, Subd. 6, of Chapter 415) may voluntarily connect to the Reuse System to both drain storm water to designated ponds and to reuse collected storm water for irrigation if all requirements of Chapter 415 are met; and

WHEREAS, prior to using the Reuse System, Chapter 415 requires an eligible property owner to enter into a recordable drainage and reuse agreement with the City; and

WHEREAS, ILEX Group, Inc., a Minnesota corporation (“Owner”) holds fee title to certain property described as Lot 6, Block 3, WACONIA MARKETPLACE, Carver County, Minnesota (the “Valvoline Property”); and

WHEREAS, the City and Valvoline desire to execute an agreement allowing the Valvoline Property to use the Reuse System; and

WHEREAS, although the Valvoline Property is close to the Reuse System, it is not currently listed in Chapter 415 as a property that is eligible to connect to the Reuse System and Chapter 415 will need to be amended to add such property; and

WHEREAS, a proposed Storm Water Drainage and Reuse Agreement is attached as Exhibit A (the “Reuse Agreement”); and

WHEREAS, the City Council finds it is appropriate and in the best interest of the City to approve the Reuse Agreement, subject to the amendment of Chapter 415 to list the Valvoline Property as an eligible property to connect to the Reuse System;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Waconia, Minnesota, that:

1. The above recitals, including the findings contained therein, are incorporated as resolutions of the City Council.
2. The form of the proposed Reuse Agreement attached as Exhibit A is approved, together with such modifications thereof, deletions therefrom, and additions thereto as the City Administrator or City Attorney may deem appropriate.
3. Subject to paragraph 4 below, the Mayor and Clerk are hereby authorized to execute, acknowledge, and deliver the Reuse Agreement and any other documents or instruments necessary or desirable to effectuate the transactions

described in the Reuse Agreement. In the event of the absence or disability of the Mayor or Clerk, such officers of the City as, in the opinion of the City Attorney may act on their behalf shall, without further act or authorization of the City Council, do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any document or instrument by the appropriate officer or officers of the City authorized herein shall be conclusive evidence of the approval of such document or instrument in accordance with the terms of this resolution.

4. The Mayor and Clerk shall not execute or deliver the Reuse Agreement until Chapter 415 of the Waconia City Code has been amended to list the Valvoline Property as a property that is eligible to connect to the Reuse System, which amendment shall be approved or denied in the City Council's sole discretion.

Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

CITY OF WACONIA
ORDINANCE NO. 766

AN ORDINANCE AMENDING CHAPTER 415
REGARDING STORM WATER REUSE SYSTEMS

The City Council of the City of Waconia Ordains:

FINDINGS AND PURPOSE

The City Council of the City of Waconia (the “City”) finds reusing storm water for irrigation reduces stress on the City’s water utility and provides other benefits to the City’s residents. The City Council further finds it is appropriate to add the property described below to the City’s storm water reuse system. The purpose of this ordinance is to amend Chapter 415 of the Waconia City Code, *Storm Water Reuse*, to add such property to the City’s storm water reuse system.

AMENDMENTS

Section 415.04, Subd. 6, of the Waconia City Code is amended to add the following property to the list of properties using the 10th Street Region Pond System:

PARCEL ID NUMBER	WACONIA ADDRESS
755040130	840 Marketplace Drive, Waconia

EFFECTIVE DATE

This ordinance is effective upon publication.

Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

CITY OF WACONIA
RESOLUTION NO. 2023-227

A RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE NO. 766

WHEREAS, the City Council of the City of Waconia, Minnesota (the “City”) adopted Ordinance No. 766 on November 6th, 2023 (the “Ordinance”); and

WHEREAS, pursuant to Minnesota Statutes §412.191, the City may publish the title and a summary of an Ordinance instead of its full text if the summary informs the public of the intent and effect of the Ordinance and the summary is approved by a four-fifths vote of the City Council; and

WHEREAS, the City Council finds: i) the summary set forth below informs the public of the intent and effect of the Ordinance; and ii) the title and summary of the Ordinance should be published instead of the full text of the Ordinance;

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

1. The above recitals and findings are incorporated as resolutions of the City Council.
2. The following official summary of Ordinance No. 766 is hereby approved:

ORDINANCE NO. 766, AN ORDINANCE AMENDING CHAPTER 415 REGARDING STORM WATER REUSE SYSTEMS, amends Chapter 415 of the Waconia City Code to add the property located at 840 Marketplace Drive to the list of properties using the 10th Street Regional Pond System.

The full text of the ordinance is available for public inspection during regular office hours at the office of the City Clerk, City Hall, 201 South Vine Street, Waconia, and will also be posted at City Hall. Further, any person may request the City to send the full text of the ordinance via standard or electronic mail by calling City Hall at (952) 442-2184.

3. The City Administrator shall submit the Ordinance title and summary to a qualified newspaper for publication using bold type no smaller than eight points in size.

Passed and adopted by the City Council of the City of Waconia this 6th day of November 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

STORM WATER DRAINAGE AND REUSE AGREEMENT

This Storm Water Drainage and Reuse Agreement is dated November ____, 2023 (the “**Effective Date**”) and is between the City of Waconia, a Minnesota municipal corporation (the “**City**”) and Waconia Partners LLC, a Delaware limited liability company (the “**Current Owner**”).

RECITALS

- A. The City operates a storm water retention pond known as the “10th Street Storm Water Regional Pond” on real property legally described as follows:

Outlot B, SUDHEIMER HOMESTEAD ADDITION, Carver County, Minnesota
(the “**Pond Parcel**”).
- B. Further, the City operates a System (defined below) that delivers storm water from such pond to certain parcels of real property for landscape irrigation uses. As part of the System, the City has installed a pump house on the real property legally described as follows:

Outlot B, SUDHEIMER RETAIL ADDITION, Carver County, Minnesota
(the “**Pump House Parcel**”).
- C. The Current Owner holds fee simple title to a parcel of real property legally described as follows:

Lot 6, Block 3, WACONIA MARKETPLACE, Carver County, Minnesota
(“**Owner’s Parcel**”).
- D. The Pond Parcel, the Pump House Parcel and Owner’s Parcel are collectively referred to in this Agreement as the “**Parcels**.”
- E. Chapter 415 of the Waconia City Code addresses pressurized storm water reuse systems. Pursuant to Chapter 415, certain parcels of real property may connect to the above-described pond and the System for storm water drainage and landscape irrigation purposes if the requirements of Chapter 415 are met. Owner’s Parcel is, or will be, listed in Chapter 415 as a parcel of real property that may voluntarily connect.
- F. After evaluating the costs and benefits associated with possible storm water management options, Current Owner desires to voluntarily subject Owner’s Parcel to the requirements of Chapter 415 and this Agreement.
- G. The City and Current Owner have entered into this Agreement to memorialize their agreements regarding the matters set forth below.

AGREEMENTS

NOW, THEREFORE, in consideration of mutual obligations contained herein, the City and Current Owner agree the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, covenants, easements, restrictions and conditions set forth below:

1. Definitions.

“Chapter 415” means Chapter 415 of the Waconia City Code, as amended, renumbered and re-codified from time to time.

“Code” means the Waconia City Code, as amended, renumbered and re-codified from time to time.

“Delivery Commencement Date” means the date the City first makes Reuse Water available at the Delivery Point.

“Delivery Point” means the primary irrigation box for Owner’s Irrigation Improvements, the location of which is depicted on attached Exhibit A.

“Green Space” means pervious area covered with grass, shrubs, trees or other vegetation.

“Hard Space” means area that is paved or cannot otherwise be irrigated with sprinkler or drip irrigation, excluding any area on which a building or some other structure has been constructed.

“Irrigation Season” means, regarding each calendar year, the period starting on the day the City first provides Reuse Water to the Delivery Point for disbursement onto the Owner’s Green Space and ending on the day that the City terminates the delivery of Reuse Water to the Delivery Point. Subject to weather conditions, each irrigation season will generally start in early April and end in late October.

“Maximum Volume” means 1,629 U.S. gallons applied to the Owner’s Green Space per day.

“Minimum Volume” means 1,086 U.S. gallons applied to Owner’s Green Space per day.

“Natural State” means a wild, primitive state untouched by civilization or, in the case of restoration, a state substantially similar thereto.

“Open Space” means the aggregate of all Green Space and Hard Space.

“Owner” means Current Owner and all successors and assigns of Current Owner as the owner of fee simple title to all or any portion of Owner’s Parcel, whether by sale, assignment, inheritance, operation of law, trustee’s sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on Owner’s Parcel unless such holder becomes a fee simple owner of Owner’s Parcel.

“Owner’s Green Space” means approximately 30,579 square feet of Green Space on Owner’s Parcel, as depicted on the diagram attached as Exhibit B.

“Owner’s Open Space” means the Open Space on Owner’s Parcel, as depicted on the site plan attached as Exhibit C.

“Owner’s Irrigation Improvements” means the facilities and apparatus installed, maintained and operated on Owner’s Parcel to meter and disperse Reuse Water on Owner’s Green Space using sprinklers and/or drip irrigation.

“Permittees” means the tenant(s), subtenant(s) or occupant(s) of Owner’s Parcel and the respective employees, agents, contractors, customers, invitees and licensees of such parties and Owner.

“Pond” means the 10th Street Storm Water Regional Pond that has been constructed on the Pond Parcel, as the same may be modified and reconstructed.

“Reuse Water” means moderately treated storm water. If at any time the City does not have enough moderately treated storm water to meet the City’s obligations under this Agreement, then the City may substitute other water of at least equal quality (e.g., potable water) and all references to Reuse Water shall be deemed to include the substituted water.

“System” means the pressurized pumps, pumping systems, pipes, distribution systems, and water treatment units maintained and operated by the City for the purpose of delivering Reuse Water from the Pond to certain parcels of real property for landscape irrigation uses, as the same may be modified, reconstructed, replaced or improved from time to time. Without limiting the general nature of the proceeding sentence, all improvements installed and maintained on the Pond Parcel and the Pump House Parcel shall be deemed part of the System.

Additional terms are defined in the introductory paragraph, the recitals and later in this Agreement. All defined terms, when capitalized, shall have the meanings ascribed to them unless the context clearly requires otherwise.

2. **Storm Water Drainage from Owner’s Parcel to the Pond Parcel.**

2.1. **Pond Drainage Easement.** Subject to the conditions, limitations and reservations contained in this Agreement, the City hereby grants Owner a nonexclusive, perpetual easement to drain storm water from Owner’s Parcel into the Pond (the **“Pond Drainage Easement”**). Such easement is an appurtenant easement that benefits Owner’s Parcel and burdens the Pond Parcel. Except for the drainage of storm water as described above, the Pond Drainage Easement does not grant Owner any rights to enter onto or possess any portion of the Pond Parcel.

2.2. **Conveyance of Storm Water.** Owner’s Parcel and the Pond Parcel are not contiguous. As such, the City agrees to provide and maintain facilities sufficient to convey storm water from Owner’s Parcel to the Pond Parcel using public drainage easements and right-of-way. The City shall determine, in its discretion, the nature and location of such facilities and the City may, from time to time, reconstruct, replace and relocate such facilities as the City desires. Further, the City shall determine, in its discretion, where the catch basin(s) for such facilities will be

located to capture storm water drainage from Owner's Parcel. Owner, at Owner's sole expense, shall direct all storm water drainage from Owner's Parcel to such catch basin(s). Notwithstanding anything in this Agreement to the contrary, the City has not granted any ownership or easement rights to Owner regarding any public drainage easements and right-of-way used by the City to meet its obligations under this Section 2.2 and Owner shall not claim any such rights.

- 2.3. **Maintenance and Repair of Pond.** Subject to Owner's obligations under this Agreement, the City shall maintain the Pond in good condition and repair.
- 2.4. **Payment of Storm Water Fees.** Regarding Owner's Parcel, Owner shall timely pay all fees required by the Code for discharge, drainage, detention and retention of storm water runoff. Owner acknowledges that it has reviewed an initial estimate of such fees prior to executing this Agreement. These fees are in addition to any storm water reuse fees described in Section 3 below.

3. **Storm Water Reuse.**

- 3.1. **Green Space Easement.** Subject to the conditions, limitations and reservations contained in this Agreement, Owner hereby grants the City and its successors and assigns an in gross easement under, across and over Owner's Green Space (the "**Green Space Easement**") for the following purposes: i) disbursing Reuse Water onto Owner's Green Space; and ii) examining Owner's Irrigation Improvements to ascertain the manner in which Reuse Water is being used, the quantity of Reuse Water being used, and any other information regarding Owner's Green Space, the System, Owner's Irrigation Improvements or Reuse Water that the City deems pertinent. Owner shall not use Owner's Green Space for any purpose that will interfere with the rights and uses granted by the Green Space Easement. The Green Space Easement shall exist as a commercial in-gross easement that is perpetual, irrevocable, and assignable. While exercising its rights under the Green Space Easement, the City shall not unreasonably interfere with any business being conducted on Owner's Parcel by Owner or Permittees.
- 3.2. **Delivery Point Easement.** Subject to the conditions, limitations and reservations contained in this Agreement, Owner hereby grants the City and its successors and assigns an in gross easement under, across and over Owner's Open Space (the "**Delivery Point Easement**") for the purposes of installing, maintaining, repairing, and replacing pipes and apparatus to deliver Reuse Water to the Delivery Point. Owner shall not use Owner's Open Space for any purpose that will interfere with the rights and uses granted by the Delivery Point Easement. Such Delivery Point Easement shall exist as a commercial in gross easement that is perpetual, irrevocable, and assignable. While exercising its rights under the Delivery Point Easement, the City shall not unreasonably interfere with any business being conducted on Owner's Parcel by Owner or Permittees.
- 3.3. **Owner's Green Space Improvements.** Owner, at its expense, shall design and install landscaping improvements on Owner's Green Space as required by the

Code or any applicable Development Agreement. Owner shall complete the construction of such landscaping improvements by no later than June 30, 2024. Thereafter, Owner shall, at its expense, keep all such landscaping improvements in good condition and repair (and install replacements when necessary).

- 3.4. **Owner's Irrigation Improvements.** Owner, at its expense, shall design and construct Owner's Irrigation Improvements in a manner capable of disbursing the Maximum Volume of Reuse Water onto Owner's Green Space each day during the Irrigation Season. Owner shall complete the construction of Owner's Irrigation Improvements by no later than June 30, 2024. Thereafter, Owner shall, at its expense, keep Owner's Irrigation Improvements in good condition and repair (and install replacements when necessary). Owner shall not excavate or otherwise attempt to enter upon City streets, parking strips, sidewalks, or other public right-of-way to lay, remove or repair Owner's Irrigation Improvements nor allow any Permittees to do so.
- 3.5. **Meter.** As part of Owner's Irrigation Improvements, Owner shall install and maintain a meter capable of measuring, in U.S. gallons, the volume of Reuse Water used on Owner's Green Space. The initial meter installed by Owner and any replacement meters are subject to the City's prior approval.
- 3.6. **City's Delivery of Reuse Water.** Commencing on the Delivery Commencement Date, the City shall make Reuse Water available at the Delivery Point for use on Owner's Green Space during each Irrigation Season, subject to the following:
 - 3.6.1 **Volume Control.** The City shall have exclusive control over the volume of Reuse Water delivered to Owner's Green Space. *For example, The City may vary the volume of Reuse Water delivered to meet Carver County volume control and water quality requirements.* Except as provided in Section 3.6.2 below, the City shall use commercially reasonable efforts to deliver no less than the Minimum Volume of Reuse Water each day during an Irrigation Season.
 - 3.6.2 **Interruption.** The City does not warrant continuous service. Any interruption in the City's delivery of Reuse Water to Owner's Green Space during an Irrigation Season ("**Interruption**") shall not be deemed a breach of this Agreement by the City nor render the City liable to Owner for damages. During any period of Interruption, however, Owner's obligation to consume Reuse Water under Section 3.7 below shall abate until service is restored by the City. Further, the following provisions shall apply, as applicable:
 - 3.6.2.1. **Involuntary.** In the event of an involuntary Interruption, the City shall make commercially reasonable efforts to restore service once it becomes aware of the Interruption. If Owner becomes aware of any Interruption (excepting any voluntary interruption

pursuant to Section 3.6.2.2 below), Owner shall give the City prompt, written notice of the Interruption.

- 3.6.2.2. **Voluntary.** The City may, at any time, modify or suspend the delivery of Reuse Water to Owner's Green Space: i) to make repairs, modifications, replacements and improvements to the System; or ii) if the City determines that Reuse Water usage needs to be scheduled, restricted or otherwise limited due to demands on the System caused by drought, mechanical failure or other reasons.

- 3.7. **Owner's Use of Reuse Water.** Owner shall fully comply with the following requirements:

- 3.7.1 **No Assignment.** Reuse Water delivered to the Delivery Point shall only be used to irrigate Owner's Green Space and for no other purpose. Owner shall not allow any other person or property owner to use such Reuse Water.
- 3.7.2 **No Contamination.** Owner shall not connect any part of Owner's Irrigation Improvements to any part of the City's potable water system. Owner shall not place or introduce into the System any matter, substance, chemical, or compound without written authorization from the City.
- 3.7.3 **No Waste.** Owner shall not waste Reuse Water or allow it to be wasted by Permittees or improperly maintained facilities (*e.g., valves, joints or pipes*). Flood irrigation using Reuse Water is prohibited unless authorized by the City in writing.
- 3.7.4 **No Interference.** Unless the City and Owner agree to the contrary, confirmed in writing, the City shall turn the delivery of Reuse Water on and off at the Deliver Point each Irrigation Season. As such, Owner shall not turn Reuse Water on or off at the Deliver Point nor allow any Permittee to do so unless the above-described agreement has been reached.
- 3.7.5 **No Destruction.** Owner shall not destroy, deface, injure, or interfere with the operation of any part of the System.
- 3.7.6 **No Improper Use.** Owner shall not use nor allow any Permittee to use Reuse Water to drive or propel any motor, siphon, turbine, wheel, hydraulic engine, elevator, or other machinery of any kind.

- 3.8. **Water Quality Disclaimer and Signage.** Owner acknowledges that Reuse Water will have only limited treatment or chemical modification. Owner shall not use or allow any Permittees to use Reuse Water for potable or consumptive use. Owner shall place no less than four (4) signs on Owner's Parcel providing notice to Permittees and the public of such restrictions.

- 3.9. **Connection Charge.** Owner shall pay the City a connection charge of \$3,043.67 (“**Connection Charge**”) to connect Owner’s Irrigation Improvements to the System, which has been calculated as follows:

60% of Owner’s estimated cost, as calculated by the City Engineer, to construct the on-site water quality and filtration improvements that would be required if Owner’s Parcel was not connected to the System;

plus

100% of the City’s estimated cost, as calculated by the City Engineer, to construct all improvements necessary to connect Owner’s Parcel to the System.

Owner acknowledges and agrees the Connection Charge is fair and equitable. The Connection Charge is due and payable within 10 days after the City approves connection to the System. If Owner fails to timely pay the Connection Charge, the City may immediately terminate this Agreement upon written notice to Owner. If termination occurs, the City shall have no obligation to connect Owner’s Parcel to the System and Owner shall address all storm water drainage requirements on-site in full compliance with Applicable Storm Water Laws (defined in Section 4.1.2 below).

- 3.10. **Reoccurring Charges.** The City shall bill Owner for all Reuse Water consumed regarding Owner’s Green Space pursuant to Chapter 415, subject to the following requirements:

3.10.1 **Rate.** The initial Water Reuse rate shall be \$2.50 for each 1,000 U.S. gallons of Reuse Water consumed. This rate may be unilaterally adjusted by the City, from time to time, in a fair and equitable manner.

3.10.2 **Invoices.** Owner shall pay each invoice for Reuse Water consumption as required by Chapter 415.

3.10.3 **Minimum Volume Requirement.** If on any day during an Irrigation Season the Minimum Volume of Reuse Water is not disbursed on Owner’s Green Space because Owner’s Irrigation Improvements are incapable of disbursing such amount, then the charge for such day shall equal the charge that would have applied had the Minimum Volume of Reuse Water been disbursed (subject to abatement pursuant to Section 3.6.2 above).

3.10.4 **Maximum Volume Limitation.** If on any day during an Irrigation Season the City disburses more than the Maximum Volume of Reuse Water on Owner’s Green Space, then the charge for such day shall equal the charge that would have applied had the Maximum Volume been disbursed.

4. **Remedies and Enforcement.**

- 4.1. **Breach by Owner.** If Owner breaches this Agreement and fails to cure such breach within 10 days of the date that the City gives Owner notice of such breach, then the City may enforce any of the following remedies (or any combination thereof):
- 4.1.1 **Suspension.** The City may suspend Reuse Water service to Owner's Parcel.
 - 4.1.2 **Termination.** The City may terminate this Agreement and the easements contained herein, in which event Owner shall reconfigure and reconstruct Owner's Parcel to fully comply with Applicable Storm Water Laws using on-site solutions located solely on Owner's Parcel (e.g., *holding ponds, rain gardens, amended soils, and runoff controls*). For purposes of this Agreement, "**Applicable Storm Water Laws**" means laws, regulations, ordinances and governmental orders, directives and policies regarding storm water and the drainage, retention and treatment thereof.
 - 4.1.3 **Collection of Delinquent Charges.** If the breach relates to any amount past due, the City may treat such amount as a delinquent utility charge under the Code. Without limiting the general nature of the immediately preceding sentence, Owner specifically agrees the City may assess Owner's Parcel for all delinquent charges.
 - 4.1.4 **Self Help.** If Owner fails to install or maintain Owner's Irrigation Improvements as required by this Agreement or Chapter 415, the City may enter onto Owner's Parcel for the purposes of curing such breach at Owner's expense (and Owner hereby grants the City a temporary easement for making such entry). Owner shall reimburse the City for any costs incurred by the City in exercising its rights under this Section 4.1.4. Any such reimbursement shall be due and payable 10 days after the City gives Owner notice of its reimbursement request.
 - 4.1.5 **Other Legal and Equitable Remedies.** In addition to the above, the City may seek any other remedy available at law or in equity including, but not limited to, damages, specific performance and injunctive relief.
- 4.2. **Breach by the City.** If the City breaches this Agreement and fails to cure such breach within 10 days of the date that Owner gives the City notice of such breach, then Owner may seek any remedy available at law or in equity.
- 4.3. **Ordinance Violation.** Any violation of Chapter 415 or any other provision of the Code may result in civil or criminal penalties pursuant to Code in addition to any remedies available to the City pursuant to this Agreement.

5. **Warranties and Liability Limitations.** Except as expressly provided in this Agreement to the contrary, the City makes no warranty, express or implied, with respect to the System and the City specifically disclaims any warranty of merchantability and of fitness for a particular purpose. Notwithstanding anything in this Agreement to the contrary, the City shall not be liable for any damage or injury to vegetation caused by Reuse Water or for

any damage or injury caused by a person ingesting Reuse Water. Further, notwithstanding anything in this Agreement to the contrary, neither party shall be liable to the other for consequential, special or exemplary damages. Moreover, nothing in this Agreement shall be construed as waiving or altering any immunity afforded the City or any liability limitations applicable to the City. The provisions of this Section 5 shall survive the expiration or earlier termination of this Agreement.

6. **Chapter 415.** To the extent any provision of this Agreement conflicts with any provision of Chapter 415, Chapter 415 shall control.
7. **Subdivision.** Owner agrees that Owner shall not subdivide Owner's Parcel without the City's consent. The City may condition any such consent on the owners of the resulting parcels entering new agreements for each resulting parcel that are substantially similar to this Agreement. The City may further require reimbursement of all costs incurred by the City regarding reconfiguration of the System to accommodate the subdivision request. All such conditions and similar conditions shall be deemed reasonable.
8. **Mortgagees.** Owner shall cause each mortgagee holding a mortgage on Owner's Parcel as of the Effective Date to subordinate its mortgage to this Agreement using a recordable document approved by the City and recorded against Owner's Parcel at Owner's expense.
9. **Change in Laws.** If any law is enacted or becomes effective, any regulation is promulgated or becomes effective, any court or administrative agency decision is rendered, any administrative agency interpretation is issued, or any similar action is taken which, in the City's reasonable opinion, is likely to cause any of this Agreement's provisions to be in violation of any such law, regulation, decision, interpretation or similar action, then the parties will use their best efforts, proceeding with dispatch and without unnecessary delay, to reform this Agreement so as to achieve, as nearly as possible, the original goals of the parties to this Agreement without the risk of such violation.
10. **Termination.** This Agreement may only be terminated under the following circumstances:
 - 10.1. **Agreement.** This Agreement shall terminate if the City and Owner agree to terminate this Agreement.
 - 10.2. **Breach.** This Agreement shall terminate if the City exercises its right to terminate this Agreement based on Owner's breach as described in Section 4.1.2.
 - 10.3. **Restoration of Owner's Parcel to its Natural State.** Owner may unilaterally terminate this Agreement if the Owner razes all improvements on Owner's Parcel and restores Owner's Parcel to its Natural State, provided all the following requirements are met:
 - 10.3.1 **Notice.** Owner gives the City written notice, not less than 180 days prior to razing any improvements, of Owner's intent to restore Owner's Parcel to its Natural State.

- 10.3.2 **Permits.** Owner obtains all required permits and approvals to perform such work.
- 10.3.3 **Inspection.** Owner allows the City, Carver County, the State of Minnesota, and their consultants to inspect Owner's demolition and restoration work.
- 10.3.4 **Cost Reimbursement.** Owner allows the City to disconnect the System from the Delivery Point and Owner reimburses the City for all costs incurred by the City to disconnect the System.
- 10.3.5 **Disconnection from Potable Water System.** Owner has the City, at Owner's expense, disconnect Owner's Parcel from the City's potable water system.
- 10.3.6 **Recordable Termination.** Owner, at its expense, prepares a written termination agreement, the form of which shall be subject to the City's approval, and records such termination in the property records for the Parcels.
- 10.4. **Termination by the City.** The City may unilaterally terminate this Agreement by written notice to Owner if the City determines, in its sole discretion, that it is no longer economically feasible or desirable to continue providing the System, provided all the following requirements are met:
 - 10.4.1 **Notice.** The City gives Owner not less than 180 days prior written notice that the City is electing to terminate this Agreement and stating the termination date.
 - 10.4.2 **Replacement Drainage Easement.** With its notice, the City delivers a new drainage easement to Owner that allows Owner's Parcel to drain up to 100% of its excess storm water into the Pond (the "**Replacement Easement**") notwithstanding the termination of this Agreement.
 - 10.4.3 **Disconnection from System.** The City disconnects the System from the Delivery Point at the City's expense on or before the date of termination at the City's expense.
 - 10.4.4 **Recordable Termination.** The City at its expense, prepares a written termination agreement, the form of which shall be subject to Owner's approval, and records such termination in the property records for the Parcels.

11. **Miscellaneous.**

- 11.1. **Notices.** Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery addressed to a party at its address listed below. Notice shall be deemed given upon receipt or refusal to accept delivery. A party may change from time to time its respective address for notice hereunder by like notice to the other party to this agreement.

The address of the City is as follows:

City Administrator
201 South Vine Street
Waconia, MN 55387

The address of Owner is as follows:

7650 Edenborough Way; Suite 200
Edina, MN 55435

- 11.2. **Entire Agreement.** This agreement contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings of the parties are superseded by this agreement.
- 11.3. **Interpretation.** The language in this agreement shall be construed as a whole according to its fair meaning and not strictly for or against any party. No easements, except those expressly set forth herein, shall be implied by this agreement.
- 11.4. **Attorneys' Fees.** In the event either party to this agreement institutes any legal action or proceeding against the other party for the enforcement of any right or obligation herein contained, the prevailing party, after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.
- 11.5. **Amendment.** The provisions of this agreement may be modified or amended, in whole or in part, or terminated, only by the written consent of the City and Owner, evidenced by a document that has been fully executed and acknowledged by the City and Owner and recorded in the official records of the County Recorder/Registrar of Titles of Carver County, Minnesota.
- 11.6. **Consents.** Wherever in this agreement the consent or approval of a party is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (i) be in writing; (ii) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (iii) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of a party under this agreement, to be effective, must be given, denied, or conditioned expressly and in writing.
- 11.7. **No Waiver.** No waiver of any default of any obligation by any party bound hereunder shall be implied from any omission by the other party with rights hereunder to take any action with respect to such default.
- 11.8. **No Agency.** Nothing in this agreement shall be deemed or construed to create the relationship of principal and agent or of limited or general partners or of joint ventures or of any other association between the City and Owner.

- 11.9. **Covenants Run with Land.** Each of the easements, covenants, conditions, restrictions, rights, and obligations set forth herein shall run with the land and shall bind every person or entity now or hereafter having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.
- 11.10. **Grantee's Acceptance.** The grantee or assignee of any of the Parcels, or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, shall accept such deed or contract upon and subject to the easements, covenants, conditions, restrictions and obligations contained herein.
- 11.11. **Severability.** Each provision of this agreement and the application thereof to the Parcels are hereby declared to be independent of and severable from the remainder of this agreement. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this agreement. In the event the validity or enforceability of any provision of this agreement is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared. Ownership of all of the Parcels or any combination of them by the same person or entity shall not terminate this agreement nor in any manner affect or impair the validity or enforceability of this agreement.
- 11.12. **Time.** All references in this agreement to "days" shall mean calendar days unless expressly referred to as "business days." If the day for performance of any obligation under this agreement is a Saturday, Sunday or legal holiday recognized by the City, then the time for performance of that obligation shall be extended to the first following day that is not a Saturday, Sunday or legal holiday recognized by the City. Time is of the essence.
- 11.13. **Governing Law.** The laws of the State of Minnesota shall govern the interpretation, validity, performance, and enforcement of this agreement.
- 11.14. **Estoppel Certificates.** Either party, within 10 days of its receipt of a written request from the other, shall from time to time provide the requesting party, a certificate binding upon such party stating: (i) to the best of such the party's knowledge, whether any party is in default or violation of this agreement and if so identifying such default or violation; and (ii) that this agreement is in full force and effect and identifying any amendments to the agreement as of the date of such certificate.
- 11.15. **Bankruptcy.** In the event of any bankruptcy affecting any party or occupant of any of the Parcels, this agreement shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

- 11.16. **Commercially Reasonable.** With respect to matters arising under this agreement, each party shall act in a commercially reasonable manner except when another standard is expressly provided.
- 11.17. **Inapplicability of MCIOA.** This Agreement creates rights relating to access and utilities. The parties to this Agreement do not intend or elect to have the Parcels, or any portion thereof, governed by the Minnesota Common Interest Ownership Act, Minnesota Statutes Chapter 515B (“**MCIOA**”). Accordingly, with respect to this Agreement, the provisions of MCIOA do not apply to the Parcels.
- 11.18. **Recitals and Exhibits.** The recitals set forth above, and the exhibits attached hereto, are incorporated and made a part of this Agreement.

This agreement is entered into as of the Effective Date.

[Signature pages follow.]

SIGNATURE PAGE TO STORM WATER DRAINAGE AND REUSE EASEMENT

CITY OF WACONIA

By: Nicole Waldron
Its: Mayor

Jacqueline Schulze
Its: Clerk

STATE OF MINNESOTA)
) ss.:
COUNTY OF CARVER)

The foregoing was acknowledged before me this ____ day of November, 2023, by Nicole Waldron and Jacqueline Schulze, the Mayor and Clerk, respectively, of the City of Waconia, a Minnesota municipal corporation, on behalf of the municipal corporation.

Notary Public

SIGNATURE PAGE TO STORM WATER DRAINAGE AND REUSE EASEMENT

Waconia Partners LLC

By: Allison Morgan
Its: Chief Manager

STATE OF MINNESOTA)
) ss
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of November, 2023, by Allison Morgan, the Chief Manager of Waconia Partners LLC, a Delaware limited liability company, on behalf of the company.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

City of Waconia
201 South Vine Street
Waconia, MN 55387
(952) 442-2184

EXHIBIT A **Diagram Depicting Delivery Point**

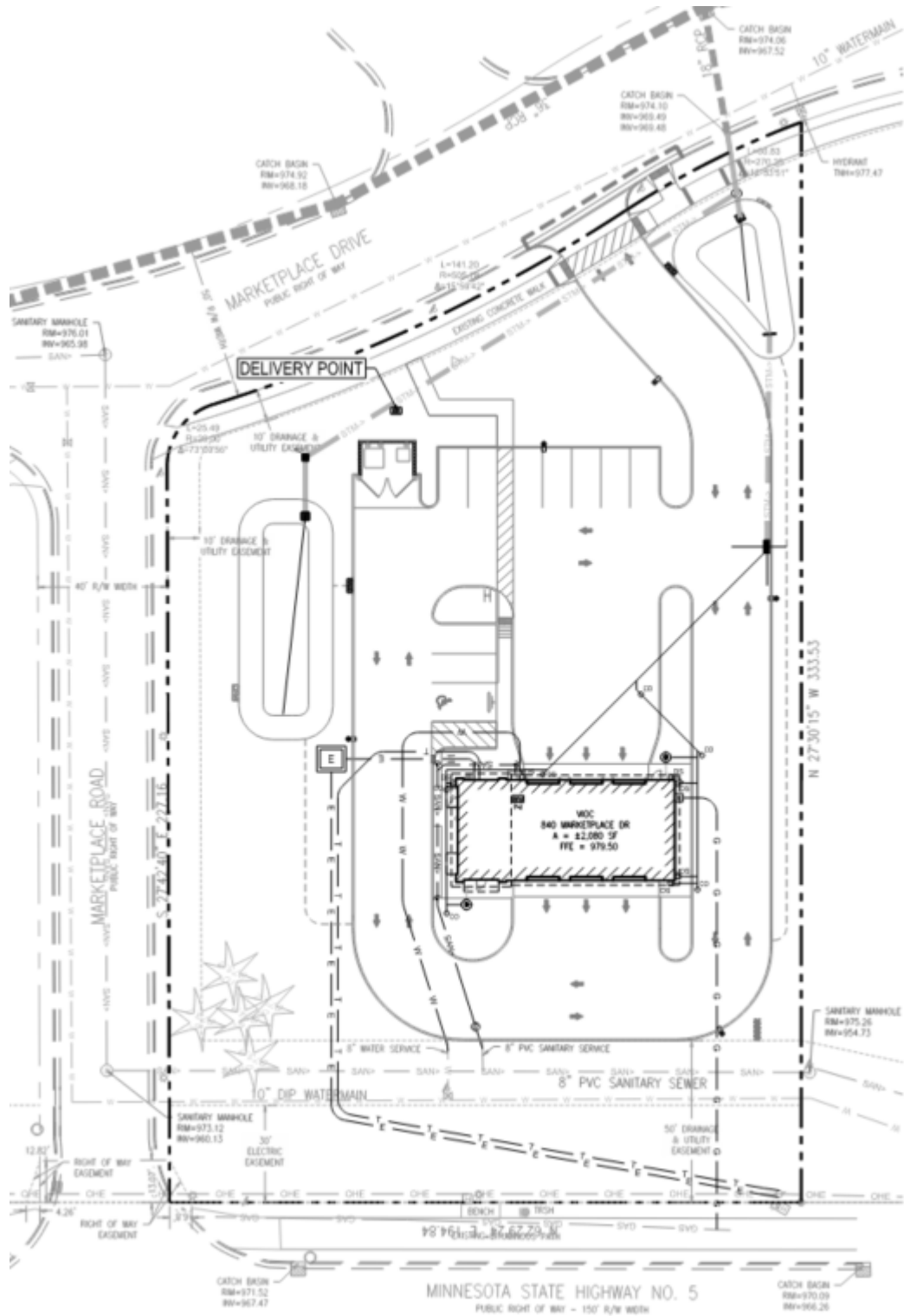


Exhibit A

Version: 10-31-2023v2

EXHIBIT B

Diagram Depicting Owner's Green Space

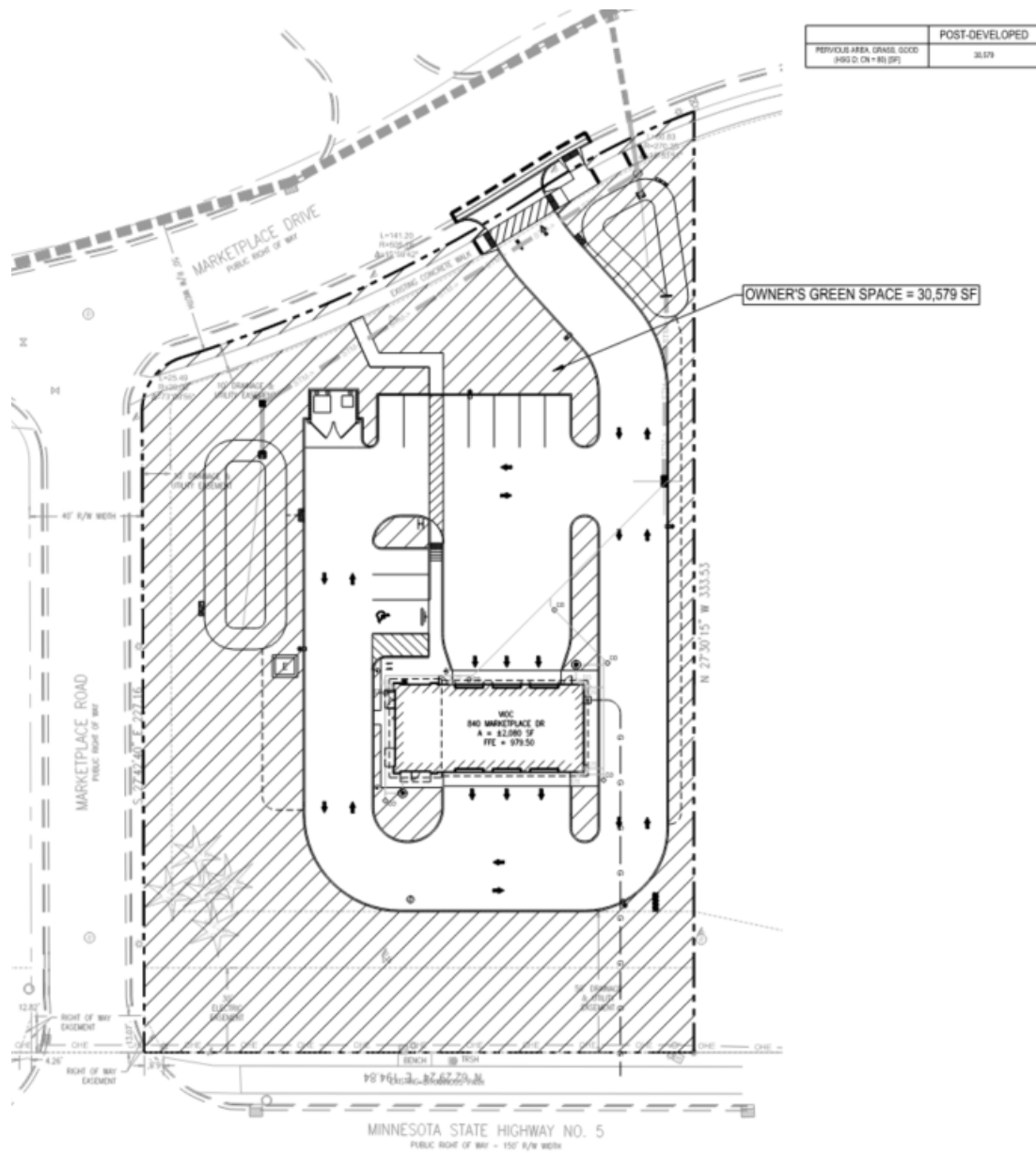
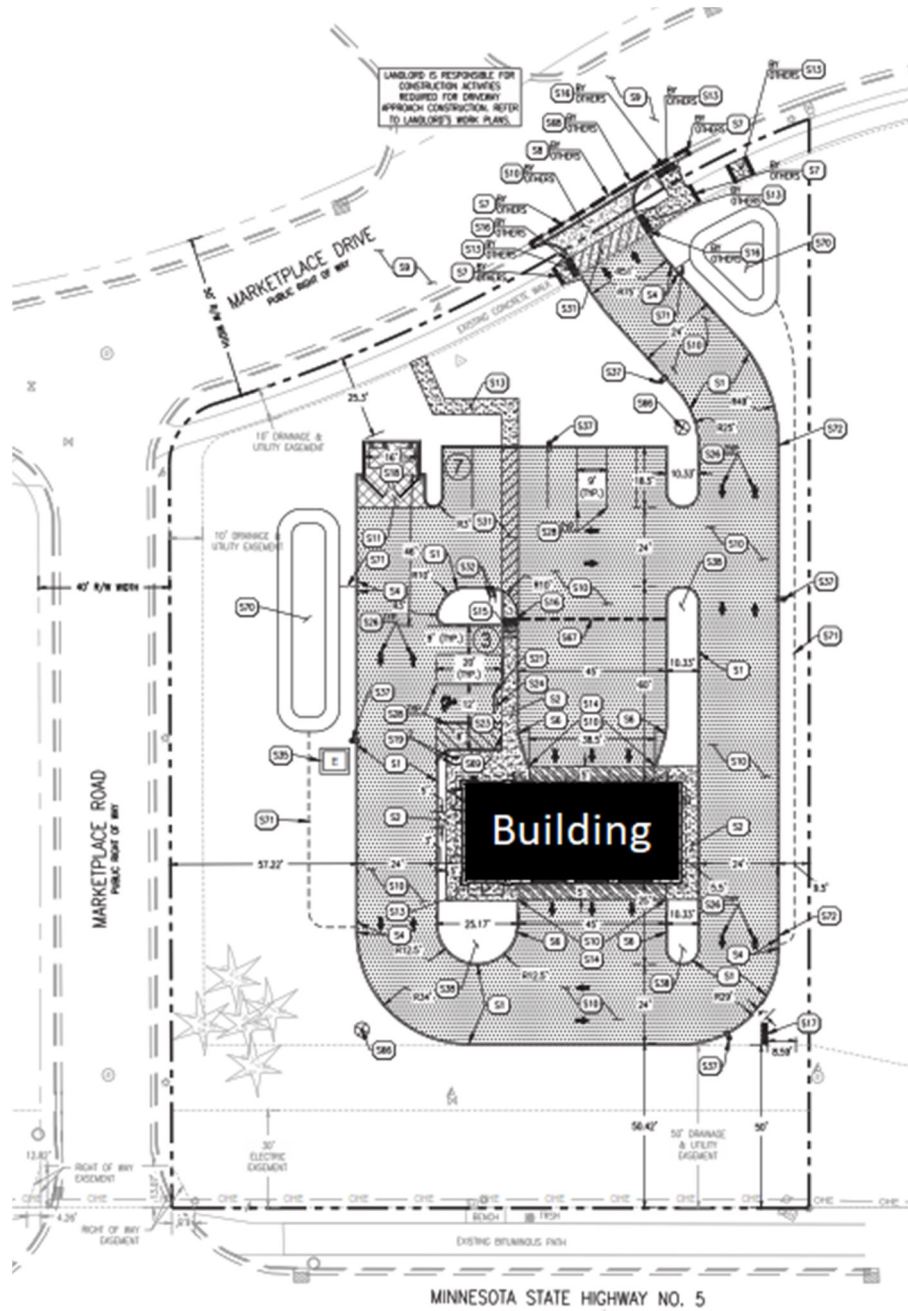


EXHIBIT C

Diagram Depicting Owner's Open Space

Owner's Open Space is all of Owner's Property, excepting the area where the "Building" is located, as depicted below.





REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Local Road Improvement Grant Application					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):		Adopted Resolution #2023-168					
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-228, Authorizing Submittal of LRIP Grant Application							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
In July the City Council authorized staff submittal of various grant and funding opportunities opening up through the Minnesota Department of Transportation and Minnesota Department of Employment and Economic Development departments for local road funding. The target of these funds is the future construction of Phase II of Highway 5 Reconstruction. The City has been actively pursuing all avenues of funding sources for the improvement of this regional asset in the community at the local, state, and federal levels. To date we have been successful in obtaining \$7M in regional solicitation funds through the Metropolitan Council. The July action authorizing submittal of grant applications for the TED and TEDI program as well as the Local Road Improvement Program. The TED and TEDI applications have been submitted as of the end of September and the LRIP program information was recently released with an application deadline of December 8th. A total grant amount of \$1.5M is available through the LRIP program. In the application material more specific supporting resolution requirements were communicated which necessitates the adoption of the attached resolution specifically targeting the LRIP program.							
<u>Attachments:</u>							
1. 2023-228 Frontage_Road_LRIP_Resolution.docx 2. Local Road Improvement Program - Info Sheet-19029936-v3.PDF							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
_____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

CITY OF WACONIA
RESOLUTION NO. 2023-228

**RESOLUTION AUTHORIZING APPROVAL OF THE CITY ENGINEER TO SUBMIT A
GRANT APPLICATION TO MNDOT'S LOCAL ROAD IMPROVEMENT PROGRAM FOR
THE TRUNK HIGHWAY FIVE PHASE II IMPROVEMENTS PROJECT FRONTAGE ROAD &
NOTE CITY ADMINISTRATOR AS ADMINISTRATOR OF GRANT**

WHEREAS, one of the City's Priorities is, "Infrastructure – managing, maintaining, and improving our current and future assets."; and

WHEREAS, federal and state transportation funding is needed to meet the infrastructure needs of our community; and

WHEREAS, in May 2023 the MN legislature passed a transportation bonding bill that appropriated \$2.6 billion to statewide infrastructure projects; and

WHEREAS, MnDOT recently announced the availability of approximately \$100 million for solicitations through the Local Road Improvement Program (LRIP); and

WHEREAS, the Local Road Improvement Program (LRIP) makes available up to \$1,500,000 to apply towards projects on local roads that are regionally significant, result in safety improvements, address transportation deficiencies, and contribute to economic development, and

WHEREAS, the proposed frontage road extension will open up 67 acres to development south of Trunk Highway 5 within the City of Waconia and is expected to generate an estimated 100-150 new jobs; and

WHEREAS, the proposed project will support the building out of the local transportation system further supporting access management and other safety improvements included in the Highway 5 Phase II Reconstruction Project planned for construction in 2026; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Waconia hereby authorizes approval of the city engineer to submit a grant application for the Trunk Highway Five, Phase II Improvements Project & note the City Administrator as the administrator of this future grant.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City of Waconia is committed to delivering the Frontage Road Extension Project in alignment with LRIP funding requirements and ensuring that the project's schedule is adhered to.

Adopted by the City Council of the City of Waconia this day 6th of November, 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk

Local Road Improvement Program

Program Overview

The Local Road Improvement Program (LRIP) provides funding assistance to local agencies for constructing or reconstructing local roads. Funds for the program are appropriated based on [Minnesota Statute 174.52](#)¹. The program was created in 2002 and began with two types of funding: Trunk Highway Corridor Account and Routes of Regional Significance Account. In 2005, the Rural Road Safety Account was added to the program. The program is administered by MnDOT's State Aid for Local Transportation Division.



Trunk Highway Corridor Account

This account is used for grants to federally recognized Indian Tribes, cities, towns, and counties to assist in paying the local share of trunk highway projects that have local or tribal costs related to the trunk highway improvement and are not funded or are only partially funded with other state and federal funds.

Routes of Regional Significance Account

This account is used grants to federally recognized Indian Tribes, cities, towns, and counties for the costs of constructing or reconstructing city streets, county highways, towns or tribal roads with statewide or regional significance that have not been fully funded through other state, federal, local or tribal funding sources.

Rural Road Safety Account

This account is used for grants to counties for constructing or reconstructing improvement projects that are intended primarily to reduce traffic crashes, fatalities, injuries, and property damage crashes on rural County State Aid Highways.

Guidance and Criteria

Guidance

Eligible local agencies include federally recognized Indian Tribes, counties, cities, and townships. Non-state aid cities (generally those with populations less than 5,000) and townships must request the sponsorship of a county to apply for and implement their project.

¹ <https://www.revisor.mn.gov/statutes/cite/174.52>

Criteria

Projects are selected through a competitive solicitation process using the following criteria along with recommendations from the Local Road Improvement Program Advisory Committee.

- The availability of other state, federal, local, tribal funds
- The regional significance of the route
- Effectiveness of the proposed project in eliminating a transportation system deficiency
- The number of persons positively impacted by the project
- Project's contribution to other local, regional, or state, economic development or redevelopment efforts
- Ability of the local unit of government to adequately provide for the safe operation and maintenance

In accordance with state statute, an Advisory Committee provides recommendations as to which projects will be funded. The committee is made up of one county commissioner, one county engineer, one city engineer, two city council members or city administrators (one each from cities with population less than and greater than 5,000), and one town board member (appointed by the Minnesota Association of Townships).

Funding Summary

Funds available for the program vary with each legislative bond appropriation. Funds shown in the table under competitive LRIP do not include engineering costs.

Year	Competitive LRIP		Earmarked LRIP	
	LRIP Funds (millions)	No. of Projects Funded	LRIP Funds (millions)	No. of Projects Funded
2014	\$54.4	3	-	-
2015	\$4.3	9	\$9.3	3
2016	\$0.0	n/a	-	-
2017*	\$25.3	45	\$90.6	11
2018*	\$35.0	53	\$75.4	16
2019	\$0.0	n/a	-	-
2020*	\$75.0	75	\$109.9	23
2021*	\$5.5	8	\$30.9	10
2022	\$0.0	n/a	-	-
2023	\$102.967		\$282.163	46

*Competitive LRIP account is still open, so number of projects funded is subject to change

For More Information

See LRIP program webpage² or contact Rashmi Brewer, State Programs Engineer at Rashmi.Brewer@state.mn.us or 651-366-3830.

² <http://www.dot.state.mn.us/stateaid/lrip.html>



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Sandy Shores - Development Agreement - Jeffery C. Helstrom					
Originating Department:		Community Development					
Presented by:		Lane Braaten					
Previous Council Action (if any):							
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-229 approving the Development Agreement for Sandy Shores.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City Council, at their regular meeting on February 21st, 2023, approved a final plat for Jeffery C. Helstrom titled Sandy Shores pursuant to Chapter 1000 of the Waconia City Ordinance. The Sandy Shores final plat consists of three (3) single-family residential lots. The City Council approved the final plat application via Resolution 2023-51 subject to certain conditions including Jeffery C. Helstrom entering into a development agreement with the City. City staff have prepared a proposed development agreement for Sandy Shores, a copy of which is attached for Council's review and consideration. City staff recommends approval of the development agreement language as proposed. Attachments: 1. 2023 - 229 Resolution Approving Development Agreement for Sandy Shores.docx 2. Dev Agreement Sandy Shores.pdf							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
_____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

CITY OF WACONIA
RESOLUTION NO. 2023-229

**RESOLUTION APPROVING DEVELOPMENT AGREEMENT
FOR SANDY SHORES**

WHEREAS, Jeffery C. Helstrom (the “**Developer**”) owns real property in the City of Waconia (the “**City**”) identified as PID# 751320034 (the “**Property**”); and

WHEREAS, Developer desires to plat the Property as Sandy Shores, which will consist of three (3) residential lots (the “**Project**”); and

WHEREAS, in connection with its development of the Project, the City requires the Developer to enter into a Development Agreement with the City; and

WHEREAS, a proposed Development Agreement has been drafted and is attached to this resolution as Exhibit 1 (the “**Development Agreement**”); and

WHEREAS, the City Council finds it is in the best interests of the City to approve the Development Agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Waconia, Minnesota, that:

1. The above recitals, including the findings contained therein, are incorporated into these resolutions.
2. The form of the Development Agreement attached as Exhibit 1 and of the proposed documents attached to such document as exhibits are approved in substantially the form attached as Exhibit 1, together with such modifications thereof, deletions therefrom, and additions thereto, as the City Administrator may deem appropriate.
3. The Mayor and City Clerk are hereby authorized to execute, acknowledge and deliver the Development Agreement and any other documents or instruments necessary or desirable to effectuate the transactions described in the Development Agreement. In the event of the absence or disability of the Mayor or the City Clerk, such officers of the City as, in the opinion of the City Attorney may act on their behalf shall, without further act or authorization of the City Council, do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers. The execution of any document or instrument by the appropriate officer or officers of the City authorized herein shall be conclusive evidence of the approval of such document or instrument in accordance with the terms of this resolution.

Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

Attest: _____
Jacqueline Schulze, City Clerk

EXHIBIT 1
Development Agreement

**DEVELOPMENT AGREEMENT
FOR
SANDY SHORES
CITY OF WACONIA, MINNESOTA**

This agreement (the “**Agreement**”) is dated _____, 2023 and is between the City of Waconia, a Minnesota municipal corporation (the “**City**”) and _____, Inc., a Minnesota corporation (the “**Developer**”).

RECITALS

WHEREAS, on September 7th, 2021, the City Council of the City (the “**City Council**”) passed Joint Resolution No. 2021-211, stipulating to the amendment of Orderly Annexation Agreement No. 76-47 and to the orderly annexation of the land located in Carver County, Minnesota, legally described on attached Exhibit A (the “**Property**”); and

WHEREAS, after annexation occurred, the Developer petitioned the City to plat the Property as SANDY SHORES, Carver County, Minnesota (“**Sandy Shores**”); and

WHEREAS, a copy of the Preliminary Plat for Sandy Shores prepared by Gronberg & Associates, Inc., dated February 11, 2020, and revised October 26, 2021, is attached as Exhibit B (the “**Preliminary Plat**”); and

WHEREAS, on August 15th, 2022, the City Council passed Resolution No. 2022-229 conditionally approving the Preliminary Plat; and

WHEREAS, pursuant to the Developer’s petition, on February 21st, 2023, the City Council passed Resolution No. 2023-51 conditionally approving the final plat of Sandy Shores drafted by Gronberg & Associates, Inc., a copy of which is attached as Exhibit C (“**Final Plat**”); and

WHEREAS, Sandy Shores, as platted, will consist of the following:

1. Lots 1 through 3, Block 1, SANDY SHORES, Carver County, Minnesota (the “**Residential Lots**”); and
2. Outlot A, SANDY SHORES (“**Outlot A**”) – Future Developable Parcel; OUTLOT B, SANDY SHORES (“**Outlot B**”) – Parcel to be deeded to the adjacent property to the north and is undevelopable until such time as the property to the north develops; and
3. Certain land dedicated to public use as depicted on Exhibit C; and

WHEREAS, the City and the Developer desire to enter into this Agreement regarding the development of Sandy Shores; and

WHEREAS, City staff has reviewed and conditionally approved the following (collectively, the “Plans”):

1. The Sandy Shores Final Landscape Plan prepared by Gronberg & Associates, Inc. dated February 11, 2020, Revision date October 16, 2023, attached as Exhibit D; and
2. Sandy Shores Construction Plans prepared by Gronberg & Associates, Inc. and dated October 6, 2021, Revision date October 16, 2023; and

WHEREAS, this Agreement sets forth and memorializes for the parties and subsequent owners the understandings and agreements of the parties concerning the development of Sandy Shores;

NOW, THEREFORE, the City and the Developer agree as follows:

TERMS

1. **INTRODUCTORY MATTERS.** Except as expressly provided in this Agreement to the contrary, the following are incorporated by reference as agreements of the City and the Developer:
 - 1.1. The Recitals set forth above; and
 - 1.2. The City resolutions referred to in the above Recitals and the exhibits attached to such resolutions (the “**City Resolutions**”).
2. **DEFINITIONS.** Defined terms, when capitalized, shall have the meanings ascribed to them in this Agreement unless the context clearly requires otherwise. Additional terms are defined in the introductory paragraph, the Recitals, and later in this Agreement.

“**City Building Inspector**” means the then current building official for the City, as designated by the City Council, or such person’s designee.

“**City Community Development Director**” means Lane Braaten, City of Waconia, 201 South Vine Street, Waconia, MN 55387, or his designee or successor.

“**City Engineer**” means Jake Saulsbury, Bolton & Menk, Inc., 2638 Shadow Lane, Suite 200, Chaska, MN 55318-1172, or his designee or successor.

“**City Public Services Director**” means Craig Eldred, City of Waconia, 310 East 10th Street, Waconia, MN 55387, or his designee or successor.

“**County**” means Carver County, Minnesota.

“**Governmental Entity**” means the City, the County, Minnesota, the United States of America, or any subdivision or department thereof including the Minnesota Department of Transportation, the Carver County Highway Department, the appropriate watershed district, the Board of Soil and Water Resources, the Minnesota Department of Natural Resources, the Army Corps of Engineers, the Minnesota Pollution Control Agency, the Metropolitan Council, the Minnesota Department of Health, or any other regulatory or jurisdictional agency having jurisdiction over the Property or the development of the Property.

“Improvements” mean, collectively, the Developer Installed Municipal Improvements, the Private Improvements, and the Landscape Improvements, all as described in Section 6 of this Agreement.

“Minnesota” means the State of Minnesota.

“Municipal Improvements” means the Developer Installed Municipal Improvements and the Developer Funded Municipal Improvements, all as described in Section 6 below.

3. **RIGHT TO PROCEED; CONSTRUCTION.** Unless separate written approval has been given by the City, the Developer may not grade or start construction of any improvement on the Property until the following conditions have been met to the satisfaction of the City: i) this Agreement has been fully executed and filed with the City Clerk; ii) the security required by this Agreement has been received by the City; iii) the Final Plat and all documents required by this Agreement to be recorded have been recorded with the Carver County Recorder’s Office or Registrar of Titles; iv) the Developer has provided the City with recording information for all instruments required to be recorded; v) the Developer is not in default of this Agreement or any other agreement related to the Property or any other property within the City limits owned by the Developer or within the Developer’s control; vi) the Developer is not in violation of any federal, state or local regulation related to the Property; vii) the City Community Development Director has issued a letter that the Developer may proceed; and viii) the Developer has acquired fee title ownership of the Property. Construction on the Property shall proceed in accordance with the Preliminary Plat, the Final Plat, the Plans, the City Resolutions, the Waconia City Code, and this Agreement.
4. **ENGINEERING AND PLANNING REQUIREMENTS.**
 - 4.1. **Developer’s Engineer.** The Developer warrants: i) that Developer has retained a duly registered professional civil engineer authorized to practice in Minnesota to prepare the Plans; and ii) such engineer has prepared the Plans in conformance with the City’s standard specifications for the Improvements.
 - 4.2. **Requirements.** The City shall have no obligation to release the Final Plat until the following engineering, planning and dedication requirements have been met to the City’s satisfaction:
 - 4.2.1. **Erosion and Sediment Control Plan.** The Developer shall have applied for and received an erosion and sediment control plan for the Property from the County. The Developer shall comply with the erosion and sediment control plan. Further, during the development of the Property, the Developer shall follow all measures required by the City Engineer to protect any wooded areas and steep slopes on the Property, as determined and directed by the City Engineer.
 - 4.2.2. **Wetlands.** The Developer shall have applied for and received all required approvals for any wetland alterations or mitigations on the Property from each Governmental Entity with jurisdiction.
 - 4.2.3. **Plan for Construction Access.** The Developer shall have submitted and

received approval for construction access to the Property from the City Engineer.

4.2.4. **Easements for Public Use.** The Developer shall have dedicated on the Final Plat or provided a separate recordable easement, as determined by the City, for all streets, trails, drainage easements, utility easements and other public use areas, as required by the City or any other Governmental Entity with jurisdiction. If a separate recordable easement is provided, the City and the Developer shall work together to record such document immediately after the Final Plat is recorded and before any liens are placed against the Property. If a lien already exists or arises before an easement can be recorded (excepting liens for real estate taxes and assessments), the Developer shall take commercially reasonable steps to subordinate all such liens to the easement.

4.2.5. **Approvals from other Governmental Entities.** The Developer shall have applied for and received approval for the Final Plat and the Plans from each Governmental Entity with jurisdiction. Thereafter, the Developer shall comply with all conditions of approval. Modifications to the Final Plat and the Plans are subject to the review and approval of the City Council. The Developer shall comply with any further requirements of the City Council based on its additional review.

5. **GRADING** The Developer shall grade the Property in compliance with the approved grading, drainage, and erosion control portion of the Plans. Within 60 days after completion of such grading, the Developer shall provide the City with a “record” grading plan certified by a registered land surveyor or engineer. The “record” plan shall depict field verified locations, site grades and elevations of the following: ponds, swales, emergency overflows, wetlands, wetland mitigation areas, ditches, borrow areas, stockpiles, lot corners, house pads, and tops and bottoms of retaining walls. The cross sections of any pond shall be obtained after the entire site is completely graded, the pond has been pumped down, all sediment has been removed, and the pond elevations have been restored to the approved design elevations.

6. **IMPROVEMENTS.**

6.1. **Municipal Improvements Installed by the Developer.**

6.1.1. **General.** Except as expressly provided to the contrary in Section 6.2 below, the Developer shall, at its expense, construct and install public improvements on and adjacent to the Property in conformance with the Preliminary Plat, the Final Plat, the Plans, the Waconia City Code, and this Agreement (the “Developer Installed Municipal Improvements”) including:

- 6.1.1.1. street grading, graveling, berms and boulevards;
- 6.1.1.2. permanent street surfacing;
- 6.1.1.3. concrete curb and gutter;
- 6.1.1.4. boulevard sodding/seeding and blanket;
- 6.1.1.5. sanitary sewer laterals or extensions including all necessary

- services, lift stations and other appurtenances;
- 6.1.1.6. storm sewers and storm water reuse facilities, including all necessary catch basins, inlets, and other appurtenances;
- 6.1.1.7. water main laterals or extensions including all necessary building services, hydrants, valves, and other appurtenances;
- 6.1.1.8. street lighting and conduit crossings of City supplied conduit, where requested;
- 6.1.1.9. sidewalks and trails depicted in the Plans.
- 6.1.2. **Oversizing.** The Developer shall oversize utilities as requested by the City Public Services Director or the City Engineer. The City shall reimburse the Developer for any oversizing expenses incurred by the Developer at the City's request in an amount equal to the difference between the actual cost incurred by the Developer and the cost that the Developer would have incurred had normal pipe sizes been used (normal size for water and sanitary sewer is 8 inches). The City Engineer shall determine the oversizing reimbursement, in his/her reasonable discretion, using pipe pricing provided by the Developer's contractor.
- 6.2. **Government Installed/Developer Funded Municipal Improvements.** The Developer shall reimburse the City for all costs associated with the installation of street, wetland buffer, bluff, and shoreland buffer signs for the Property, including the cost of all materials and staff time required to install such signs invoiced at the then current staff labor rates set forth in Chapter 1100 of the Waconia City Code (the "**Developer Funded Municipal Improvements**").
- 6.3. **Private Improvements.** The Developer shall, at its expense, install private improvements on the Property (the "**Private Improvements**") in conformance with the Preliminary Plat, the Final Plat, the Plans, the Waconia City Code, and this Agreement, including grading of the Property and installation of corrected soil areas.
- 6.4. **Landscape Improvements.** The Developer shall install, at its expense, all landscaping improvements required by the Landscape Plans attached as Exhibit D (the "**Landscape Improvements**"). Further, for a period of 2 years from the date installed, Developer shall replace any plant material that dies or is not growing properly.
- 6.5. **Shoreland Improvements.** The Developer shall comply with Section 900.06, Subd. 7, Shoreland Overlay District, of the Waconia City Code (the "**Shoreland Regulations**").
 - 6.5.1. **General.** Based on the Sandy Shores Preliminary Plat, information submitted by the Developer and City staff review, the City and Developer acknowledges and agrees as follows regarding the Property:
 - 6.5.1.1. The entirety of the Sandy Shores residential development is located within the Shoreland Overlay District;
 - 6.5.1.2. There are steep slopes, bluff, bluff impact zones, and shore impact

zones associated with the Development;

6.5.1.3. The Shoreland Overlay District restricts development within steep slopes, bluff impact zones and shore impact zones. Any proposed improvements within these areas shall be approved by City staff prior to any vegetation removal, grading, and/or improvement within said areas.

6.6. **Tree Preservation/Restoration/Restitution.** The Developer shall comply with the City's tree preservation regulations found at 900.06, subd. 8, C, of the Waconia City Code (the "Tree Regulations").

6.6.1. **General.** Based on the Sandy Shores Preliminary Plat, information submitted by the Developer and City staff review, the City and the Developer acknowledge and agree as follows regarding the Property:

6.6.1.1. There are 1,059 caliper inches of significant trees as of the date of this Agreement;

6.6.1.2. The Developer agrees to save 778 caliper inches of trees (73.5%);

6.6.1.3. The Developer shall be allowed to remove 281 caliper inches of trees (26.5%);

City Code allows a removal threshold of thirty (30) percent of the total inches of significant trees for residential districts. The Sandy Shores Tree Preservation & Landscape Plan dated February 11, 2020, and revised September 26, 2023, proposes the removal of a conforming number of trees and therefore no escrow shall be required for tree preservation/restoration/restitution. If, for some reason, additional trees are removed which were not identified in the approved plan set, and the removal causes the Developer to exceed the thirty percent removal maximum, the Developer shall be responsible to pay any required fees per the tree preservation regulations found in 900.06, subd. 8, C of the Waconia City Code. The excess removal may require additional replanting, a restitution payment, etc.

6.7. **Permits.** Prior to any grading or construction occurring on the Property, the Developer shall determine and obtain all necessary approvals, permits, and licenses required by each Governmental Entity with jurisdiction. Any design requirements of such Governmental Entities shall be determined prior to completion and incorporated into the plans and specifications. All costs incurred to obtain such approvals, permits, and licenses and all fines or penalties levied by any Governmental Entity due to the failure of the Developer to obtain or comply with the conditions of such approvals, permits, and licenses shall be the sole responsibility of the Developer. The Developer agrees to defend and hold the City, its officers, employees, and agents harmless from any action initiated by any Governmental Entity resulting from any failure of the Developer to acquire the permits and approvals required herein.

- 6.8. **Licenses.** The Developer hereby grants the City, its agents, employees, officers, and contractors a license to enter the Property to perform all work and inspections deemed appropriate by the City in conjunction with the development of the Property. The City hereby grants the Developer a license to enter onto the portions of the Property dedicated for public use to construct the Developer Installed Municipal Improvements and any other improvements required by this Agreement.
- 6.9. **Standard of Performance.** All labor and work shall be done and performed in the best and most workmanlike manner and in strict conformance with the Preliminary Plat, the Final Plat, the Plans, the Waconia City Code, and this Agreement, unless approved in writing to the contrary by the City Engineer. If there are contradictions between the Preliminary Plat and the Final Plat as it relates to the development contemplated in this Agreement, the Final Plat shall control.
- 6.10. **Deadlines for Completion.** The Developer shall install all Developer Installed Municipal Improvements and Private Improvements by November 1st, 2024, except for the final lift of pavement on the roads and parking areas. The final lift of pavement on the roads and parking areas shall be completed no later than June 30th, 2025. All Landscape Improvements shall be installed no later than November 1st, 2024. The Developer may request an extension of time from the City in regard to any deadline, which the City may grant or deny in its sole discretion; provided, however, that the City shall not unreasonably deny any request for extension of any such deadline to the extent that the need therefor is caused by events beyond the reasonable control of Developer. If an extension is granted, it shall be conditioned upon updating the security posted by the Developer to reflect cost increases and the extended completion date.
- 6.11. **Construction Times.** The Developer shall conduct all construction activities in conformance with the City's noise ordinance (Chapter 740 of the Waconia City Code). Construction activities shall be allowed between 7:00 a.m. and 10:00 p.m. on weekdays (excepting holidays) and between 9:00 a.m. and 10:00 p.m. on Saturdays. Any deviation from the allowed construction times must be approved by the Public Services Director or the City Engineer.
- 6.12. **Public Property Damage.** The Developer is liable for all damage to public property and improvements (e.g., street and utility systems) directly or indirectly arising from the grading or the development of the Property. The Developer shall promptly notify the City Public Services Director of any such damage the Developer discovers. Further, the Developer shall repair all such damage, at its expense, within 10 days after receiving written notice from the City requesting repair. If the Developer fails to repair any damage within 10 days of receiving the City's notice, the City may make the repair. Further, the City, in its discretion, may elect to repair any damage itself. In either case, the Developer shall reimburse the City for all materials and labor associated with the repair.
- 6.13. **Street Cleaning.** During the grading and the development of the Property, the Developer shall keep the streets, sidewalks, and trails within and adjoining the

Property free of dirt, debris and clutter caused by the development. If the City determines the Developer has violated this requirement, the City may give the Developer written notice of the violation and the Developer shall perform the cleanup within 48 hours. If the Developer fails to perform the cleanup to the City's satisfaction within 48 hours of receiving the City's notice or the City determines, in its discretion, that circumstances warrant cleanup faster than within 48 hours, the City may perform the cleanup itself and the Developer shall reimburse the City for all materials and labor associated with the cleanup.

- 6.14. **Inspection.** The Developer shall instruct its engineer to provide adequate field inspection personnel to assure an acceptable level of quality control and conformance to the City's standards. Further, the City may, at the City's discretion and at the Developer's expense: i) have one (1) or more City inspectors and a soil engineer inspect the work on a full or part-time basis; or ii) take any action necessary to certify utilities for compliance and use. The Developer, its contractors, and subcontractors, shall follow all instructions received from the City's inspectors. The Developer's engineer shall provide on-site project management. The Developer's engineer is responsible for design changes and contract administration between the Developer and the Developer's contractor. The Developer, through its engineer, must also provide all surveying and construction staking necessary to ensure that the construction conforms to the Plans. The Developer or its engineer shall schedule a pre-construction meeting at a mutually agreeable time at City Hall or via virtual meeting (e.g., Zoom) with all parties concerned, including the City staff, to review the program for the construction work.
- 6.15. **Final Inspection by the City.** Promptly upon completion of the Improvements, the Developer shall provide the following to the City (the "**Inspection Deliverables**"):
- 6.15.1. as-built plans of the Improvements in both paper and electronic format, which electronic format shall be acceptable to the City Public Services Director; and
 - 6.15.2. a recording of closed-circuit televising of the sanitary sewer improvements and a written report describing such televising.
- 6.16. **Acceptance by the City.** All the Improvements are subject to final inspection by the City Engineer, the City Public Services Director, and the City Building Inspector (collectively, the "**City Staff Inspectors**"). If any of the City Staff Inspectors determine corrective action is needed to conform any of the Improvements to the Plans, this Agreement, any requirement of a Governmental Entity, or to correct defective or damaged work (including, but not limited to, pavement and sidewalk and/or trail cracks and damage), the City shall inform the Developer of the corrective action needed. Upon receiving notice from the City of any corrective action needed, the Developer shall, at the Developer's expense, promptly complete the corrective action to the satisfaction of the City Staff Inspectors. Further, within 60 days of the City's receipt of the Inspection Deliverables, the City shall either accept, by resolution of the City Council, the Developer Installed Municipal Improvements or inform the Developer of corrective action needed. Regarding the Developer Installed Municipal

Improvements, the City's failure to act as stated above within the 60-day period shall be deemed acceptance. Upon acceptance by the City, the Developer Installed Municipal Improvements shall become City property without further action.

7. WARRANTIES.

- 7.1. **Developer Installed Municipal Improvements.** The Developer agrees, or shall cause its prime contractor to agree, to guarantee and warrant all work performed and all materials supplied for the construction of the Developer Installed Municipal Improvements for a period of 2 years from final acceptance by the City and to promptly repair or replace any portion of the Developer Installed Municipal Improvements found to be defective. Upon completion of the Developer Installed Municipal Improvements and acceptance thereof by the City Council, the Developer shall furnish the City with a 2-year warranty bond for 100% of the cost of the Developer Installed Municipal Improvements.
- 7.2. **Developer Funded Municipal Improvements.** Except for its obligation to pay for the Developer Funded Municipal Improvements, the Developer has no obligation to provide any guarantee or warranty for such improvements.
- 7.3. **Landscape Improvements.** The Developer agrees, or shall cause its prime contractor to agree, to guarantee and warrant to the City all work performed and all materials supplied regarding the Landscape Improvements for a period of 2 years from the date installed. If any plant material dies or is not growing properly within 2 years of the date it is installed, the Developer or its prime contractor shall promptly replace it.

8. INSURANCE AND INDEMNIFICATION.

- 8.1. **Insurance.** The Developer shall furnish, or shall cause its prime contractor to furnish, proof of insurance prior to the commencement of construction of the Improvements, which shall be subject to the review and approval of the City, covering public liability and property damage by reason of operation of the contractor's equipment, laborers and hazard caused by the Improvements at a minimum policy amount of \$1,000,000.00. The contractor shall keep such insurance in force during construction of the Improvements and applicable warranty periods. The insurance shall name the City as an additional insured and shall require the insurer to give the City not less than 30 days' written notice prior to modification or cancellation of the insurance policy.
- 8.2. **Indemnification.** Claims against the Developer, its agents, servants, or employees relating to the development of the Property shall in no way be the obligation of the City. The Developer shall indemnify, hold harmless, and defend the City, its elected officials, officers, employees, consultants, contractors and agents (the "**Indemnified Parties**") from and against any and all liabilities, losses, costs, damages, expenses, claims, actions, or judgments, including reasonable attorneys' fees and court costs, that the Indemnified Parties, or any of them, may sustain, incur, or be required to pay, directly or indirectly arising out of the Developer's violation of this Agreement or any act or failure to act by the Developer, its officers, employees, consultants, contractors or agents, except to the extent directly caused by the negligence of the Indemnified

Parties or any of them.

9. **BUILDING PERMITS, CERTIFICATES OF OCCUPANCY AND LOT FEES.**

9.1. **General Building Permit Requirements.** No building permits for any Residential Lots on the Property shall be issued until:

- 9.1.1. the Final Plat has been recorded;
- 9.1.2. site plans (if applicable) have been submitted and have been reviewed and approved by the City Council;
- 9.1.3. the Improvements have been substantially completed;
- 9.1.4. restrictive covenants and homeowners' association documents, if any, are acceptable to the City and have been executed and recorded;
- 9.1.5. park dedication requirements have been met as required herein;
- 9.1.6. any outstanding amounts due the City under this Agreement have been paid;
- 9.1.7. all required financial guarantees have been given to the City; and
- 9.1.8. the Developer is not then in default of this Agreement.

9.2. **Individual Lot Building Permit Requirements.** In addition to the requirements in Section 9.1 above, no building permit for an individual lot on the Property shall be issued until:

- 9.2.1. the City Public Services Director has approved access and temporary construction access for the lot;
- 9.2.2. the applicant for the permit has paid all fees then required by the City or any other Governmental Entity for issuance of a building permit including any fees for: i) metro sewer availability; ii) sewer trunk; iii) sewer permit; iv) sewer hookup; v) water trunk; vi) water permit; vii) water hookup; viii) storm water trunk; and ix) storm water connection;
- 9.2.3. individual lots are properly established with Best Management Practices ("BMP") devices approved by the City Public Services Director including slit-in silt fence (spring – fall months) or proper log rolls (winter season); and
- 9.2.4. all Waconia City Code requirements for issuance of a building permit have been met.

9.3. **Certificate of Occupancy Requirements.** No certificate of occupancy shall be issued for a residential structure until:

- 9.3.1. the City Public Services Director has approved an as-built final grade and sidewalk survey for the lot;
- 9.3.2. the City Public Services Director has completed a utility check for the lot including sump pump connection inspection;
- 9.3.3. the City Public Services Director has approved storm water compliance for the

lot; and

9.3.4. all Waconia City Code, building code and other requirements for issuance of a certificate of occupancy have been met.

- 9.4. **Lot Fees.** Once the Final Plat has been recorded and tax parcel identification numbers have been assigned to the Residential Lots and any outlots depicted in the Final Plat, the City will start charging monthly storm water and street lighting fees pursuant to Waconia City Code, Chapters 413 & 414. The Developer acknowledges the City will charge such fees on all lots, including any outlots held by the Developer for future development (with fees being reallocated when replatting occurs). The Developer shall timely pay all such fees on all parcels owned by the Developer. These fees are subject to adjustment, from time to time, by the City Council.
10. **PARK DEDICATION AND CONVEYANCE OF ADDITIONAL PROPERTY.** The Developer shall be required to submit payment in lieu of land dedication for the 2.92-acre parcel minus the areas indicated for the stormwater pond, the outlot being conveyed to the adjacent property to the north, the Laketown Parkway/County Road 92 right-of-way being conveyed to Carver County, and the areas to remain undeveloped within the steep slope and bluff areas (19, 822 sq. ft./0.455 acres). City Code Chapter 1000, Section 100.06, Subd. 7.D. Payment in Lieu of Land indicates payment of \$6,000 per gross acre of land in a residential subdivision. Further, City Code indicates "The gross acreage calculation shall not include lands occupied by delineated wetland areas, areas utilized for stormwater retention ponds and steep slopes in excess of 18% that remain undeveloped." As such, the Developer shall be responsible for a payment of \$14,790.00 in Park Dedication Fees based on an acreage of 2.465 acres.
11. **LOT REQUIREMENTS.** All residential lots shall meet the requirements of the R-1, Single-Family Residential District stated in Section 900.05, Subd. 2.A and the requirements of the Shoreland Overlay District stated in Section 900.06, Subd. 7.
12. **PAYMENT OF COSTS AND EXPENSES.**
- 12.1. **General.** The Developer agrees to pay, upon demand of the City, all costs, expenses, charges, and fees incurred or paid by the City in relation to this Agreement, the grading, or the development of the Property. For example, the Developer shall reimburse the City for staff time, consulting fees, reasonable attorneys' fees, costs, expenses and charges relating to: i) review of the Plans; ii) the negotiation and preparation of this Agreement; iii) reviews and inspections required or permitted by this Agreement; iv) certifying utilities for compliance and use; and v) except as otherwise set forth in Section 8.2 and 18.7, any action or suit relating to this Agreement or the development of the Property. Concurrent with the full execution of this Agreement, the Developer shall deposit the sum of \$10,000.00 in escrow to cover such costs. The City may, from time to time, withdraw funds from such escrow to pay costs, expenses, and charges the Developer is required to pay; provided however, that concurrent with each such withdrawal the City shall provide the Developer with an itemized statement showing the costs, expenses and charges incurred, the amount withdrawn from escrow to pay them, and the amount remaining in escrow. Any excess amount remaining in escrow on December 31, 2024, shall be promptly refunded to

the Developer. Any costs, expenses, or charges in excess of the escrow amount (or incurred after the escrow account is closed) shall be billed by the City and paid by the Developer in conformance with Section 12.2 below.

12.2. **City Billing Procedure.** Whenever this Agreement permits the City to demand payment from the Developer or requires the Developer to reimburse the City, the City shall invoice the Developer for the amount due. Each amount invoiced by the City to the Developer shall be due and payable 30 days after the date of the applicable invoice. If the Developer fails to pay any amount on before the date such amount is due, the Developer shall be deemed in default of this Agreement. Any invoice for reimbursement shall itemize the amounts previously incurred by the City for which reimbursement is sought.

12.3. **Developer Billing Procedure.** Whenever this Agreement permits the Developer to demand reimbursement from the City, the Developer shall invoice the City for the amount due. Each amount invoiced by the Developer to the City shall be due and payable 30 days after the date of the applicable invoice. If the City fails to pay any amount on before the date such amount is due, the City shall be deemed in default of this Agreement. Any invoice for reimbursement shall itemize the amounts previously incurred by the Developer for which reimbursement is sought.

13. **FINANCIAL GUARANTEES.** Prior to release of the Final Plat, unless otherwise stated, the Developer shall provide the following financial guarantees.

13.1. **Guarantee for Municipal Improvements.**

13.1.1. **Letter of Credit.** To assure the installation of all Municipal Improvements in a good and workmanlike manner and the Developer's faithful performance of its obligations under this Agreement, the Developer shall provide the City with an irrevocable letter of credit from a U.S. bank with a physical branch location in Minnesota, the form of which shall be satisfactory to the City (the "**Letter of Credit for the Municipal Improvements**") in the amount of \$630,000.00 (which equals 120% of the cost of the Municipal Improvements). If the Developer fails to install the Developer Installed Municipal Improvements in accordance with the provisions of this Agreement, fails to reimburse the City for the Developer Funded Municipal Improvements as required herein, or otherwise breaches its obligations under this Agreement, the City shall notify the Developer in writing of such breach. If the Developer fails to cure the breach within 30 days of receipt of the City's written notice the City may declare a default under the Agreement. Thereafter, the City may draw upon the Letter of Credit for the Municipal Improvements in such amount as is reasonably adequate to cure the breach. The Letter of Credit for the Municipal Improvements shall be renewable on an annual basis and shall require the issuer to give the City notice at least 30 days prior to the date of renewal.

13.1.2. **Release/Reduction of Letter of Credit.** The Developer may apply to the City for a release of all or a portion of the Letter of Credit for the Municipal

Improvements as follows:

- 13.1.2.1. When another irrevocable letter of credit acceptable to the City is furnished to the City to replace the Letter of Credit for the Municipal Improvements.
- 13.1.2.2. Not more often than once per month, Developer may request reduction of the principal amount of the Letter of Credit based on work completed to date, as evidenced by Pay Requests approved by Developer's Engineer, and provision of proof satisfactory to the City of the amount expended by the Developer to date (or, in the case of Developer Funded Municipal Improvements, reimbursed to the City) in the connection with construction and installation of the Municipal Improvements. Developer shall make each such request in writing, which request will include (a) a description of the work performed and completed in connection with the Municipal Improvements and (b) evidence of costs paid by Developer as per Pay Requests approved by Developer's Engineer (or reimbursed to the City) to date in connection with such work. Within 20 days after receipt of any such request, the City shall, after confirming completion of the work in question, authorize, pursuant to written notice to the Developer, the reduction of the Letter of Credit by the amount determined accurate by the City to have been expended by Developer (or reimbursed to the City) in connection with the completed work, so long as, after any such reduction, the remaining balance of the Letter of Credit is at least 120% of the aggregate cost, as determined or estimated by the City, of the remaining work to be performed in order to complete construction and installation of the Municipal Improvements. Notwithstanding the foregoing to the contrary, the City shall not be obligated to authorize any reduction in the Letter of Credit at any time that the Developer is in default under this Agreement.
- 13.1.2.3. When all of the Municipal Improvements, including the wear course of pavement, have been completed and the warranty bond required by Section 7 of this Agreement has been provided to the City, the Developer may apply to have the Letter of Credit for Municipal Improvements released in its entirety and the City shall grant such request.

13.2. Guarantee for the Landscape Improvements.

- 13.2.1. **Letter of Credit.** To assure the installation of all Landscape Improvements in a good and workmanlike manner, the proper growth of all plants for the period of 2 years after installation, and the Developer's faithful performance of its obligations under this Agreement, the Developer shall provide the City with an irrevocable letter of credit from a U.S. bank with a physical branch location in

Minnesota, the form of which shall be satisfactory to the City (the “**Letter of Credit for the Landscape Improvements**”) in the amount of \$28,500.00 (which equals 100% of the cost of the Landscape Improvements). If the Developer fails to install and maintain the Landscape Improvements in accordance with the provisions of this Agreement, fails to replace a plant not growing properly, or otherwise breaches this Agreement, the City shall notify the Developer in writing of such breach. If the Developer fails to cure the breach within 30 days of receipt of the City’s written notice the City may declare a default under the Agreement. Thereafter, the City may draw upon the Letter of Credit for the Landscape Improvements in such amount as is reasonably adequate to cure the breach. Such Letter of Credit for the Landscape Improvements shall be renewable on an annual basis and shall require the issuer to give the City notice at least 30 days prior to the date of renewal.

13.2.2. **Release/Reduction of Letter of Credit for Landscape Improvements.** The Developer may apply to the City for a release of all or a portion of the Letter of Credit for the Landscape Improvements as follows:

13.2.2.1. When another irrevocable letter of credit acceptable to the City is furnished to the City to replace the Letter of Credit for the Landscape Improvements; or

13.2.2.2. Upon such time as the Landscape Improvements have been installed for a period of 2 years or a warranty bond ensuring the proper growth of all plant material for a period of 2 years following installation has been provided to the City.

13.3. **Expiration.** If any letter of credit required by this Section 13 will expire pursuant to its terms prior to the time that all money or obligations of the Developer are paid or completed pursuant to this Agreement, the Developer shall provide the City with a new letter of credit, acceptable to the City, at least 30 days prior to the expiration of such expiring letter of credit. If the City does not receive a new letter of credit as required above, the City may declare the Developer in default of this Agreement and draw, in whole or in part at the City’s discretion, upon the expiring letter of credit to avoid the loss of surety.

13.4. **Failure to Perform.** If, after any notice required hereunder and the expiration of any applicable cure period, the Developer is in default of this Agreement or otherwise fails to perform any of the duties, conditions or terms of this Agreement in the time permitted herein, or in such extended time as may be granted in writing by the City Council, the City shall be entitled to draw on any letter of credit provided by the Developer pursuant to this Section 13, to enter the Property, and to cure the default. If the default consists of the Developer’s failure to install any of the Improvements in accordance with the provisions of this Agreement, the City shall cure the default by performing the work in accordance with this Agreement and the Plans. The City may reimburse itself for all costs and expenses, including, but not limited to reasonable legal and consulting fees, arising out of, or related to, curing the Developer’s default

from letter of credit funds. The Developer shall indemnify, hold harmless, and defend the City, its officers and employees against any and all liability, loss, costs, damages, expenses, claims, actions, or judgments, including reasonable attorneys' fees which the City, its officers or employees may hereafter sustain, incur, or be required to pay, arising out of or by reason of the City exercising its power under this Section 13.4.

- 13.5. **Costs.** The City's costs for processing any letter of credit reduction or release request shall be billed to the Developer at \$125.00 per hour with a minimum of 1 hour per reduction or release and shall be paid by the Developer to the City within 30 days of billing. Any request for reduction or release of a letter of credit shall be either approved or denied within 30 days of being made in writing to the City.
- 13.6. **Deficiency.** If any of the sureties described in this Section 13 are used by the City and found to be deficient in amount to pay or reimburse the City in total as required herein, the Developer agrees that upon being billed by the City, the Developer will pay the deficiency amount to the City within 10 days of receipt of such billings to the Developer. If the Developer fails to pay, the City may assess all costs, including, but not limited to, staff time, reasonable engineering fees and legal fees against each lot in the Development for which an occupancy has not then been issued by the City. The Developer acknowledges that the City has the authority, pursuant to Minnesota Statutes Chapters 412 and 429, to specially assess property benefited by improvements. If there is an overage in the amount of utilized security the City shall, upon making such determination, refund to the Developer any monies in the City's possession that are in excess of the surety needed by the City. In addition to the above, the City may seek a civil judgment against the Developer.
14. **PROOF OF TITLE/ATTORNEY REVIEW.** Prior to release of the Final Plat, the Developer shall provide an updated and certified Abstract of Title and/or Registered Property Abstract as required by Minn. Stat. §505.03, or in the alternative, the Developer may provide a commitment for a title insurance policy for the Property, as platted, naming the City as the proposed insured and with the amount of coverage for this policy being equal to \$10,000.00 per acre dedicated to the City (including streets, rights-of-way, park dedication, outlot conveyances, and drainage and utility easements). The evidence of title shall be subject to the review and approval of the City Attorney to determine which entities must execute the Final Plat and other documents to be recorded against the Property. The Developer shall cause a title insurance policy to be issued consistent with each commitment for a title insurance policy provided by the Developer and the requirements of the City Attorney and with an effective date on which the Final Plat is recorded (the City will not issue any certificate of occupancy until it is provided with the title insurance policy). Further, the Developer shall provide the City with evidence, which sufficiency shall be determined by the City, that all documents required to be recorded pursuant to this Agreement and by the City Attorney are recorded and all conditions for release of the Final Plat have been met prior to the City approving any building permits or other permits applicable to the development of the Property.
15. **REPRESENTATIONS AND WARRANTIES OF DEVELOPER.** The Developer, as an inducement to

the City to enter into this Agreement, hereby represents, warrants, and covenants to the City as follows:

- 15.1. **Authorization.** The Developer is an organized limited liability company under the laws of Minnesota and is in good standing and authorized to do business in Minnesota. The Developer has full authority to enter into this Agreement and make it binding on itself and its successors and assigns, and to make this Agreement, and the covenants herein, binding upon and running with the Property. This Agreement shall not become effective until it is executed and delivered by the City and the Developer.
- 15.2. **Ownership.** The Developer has a fee ownership interest in the Property.
- 15.3. **Execution No Violation.** The execution, delivery and performance of this Agreement does not and will not result in any breach of, or constitute a default under, any indenture, mortgage, contract, agreement, or instrument to which the Developer is a party or by which it, or the Property, is bound.
- 15.4. **Litigation.** There are no pending actions or proceedings, or to the knowledge of the Developer, threatened actions or proceedings before any court or administrative agency that will adversely affect the Property or the ability of the Developer to perform its obligations under this Agreement.
- 15.5. **Compliance.** The Developer will comply with and promptly perform all the Developer's obligations under this Agreement and all related documents and instruments.
- 15.6. **Wetlands.** As of the date of this Agreement, the Property and the proposed development thereof complies with the Wetland Conservation Act.
- 15.7. **Environmental Laws.** To the best of the Developer's knowledge, as of the date of this Agreement, the Developer is not in violation of any local, state, or federal environmental law, regulation, or review procedure, which would give any person a valid claim under the Minnesota Environmental Rights Act with respect to the Property.
16. **DEFAULT.** If the Developer, its successors or assigns breaches any of the covenants or agreements herein contained and any such violation remains uncured for more than 30 days after the City gives the Developer notice of the breach (unless another provision of this Agreement calls for a shorter cure period, in which case the shorter period shall apply), the City may draw and/or utilize the deposited escrow funds, letters of credit, or other surety funds to complete the Developer's obligations as set forth herein, and to the extent not satisfied from such funds, to bring legal action against the Developer to collect any sums due pursuant to this Agreement. In the event of an uncured breach, the Developer hereby grants the City and the City's employees, representatives, or agents the right to enter the Property to perform any act deemed necessary by the City to cure the Developer's breach. In addition to the above, the City may initiate any legal action allowed by law, including, but not limited to, injunctive relief for compliance with this Agreement.
17. **NOTIFICATION INFORMATION.** Any notice to the parties herein shall be deemed to have been

given or delivered if sent by certified mail addressed as follows or by email with a return receipt requested:

If to the City:

City of Waconia
201 South Vine Street
Waconia, MN 55387
Attn: Shane Fineran, City Administrator
Email: sfineran@waconia.org

If to the Developer:

_____, Inc.

_____, MN 55____
Attn: President
Email: _____

18. **MISCELLANEOUS.**

- 18.1. **Runs with the Property.** The terms and conditions of this Agreement shall be binding on the parties hereto, their respective successors and assigns. The benefits and burdens of this Agreement run with the Property. Notwithstanding the foregoing, no conveyance of the Property or any part thereof shall relieve the Developer of its personal liability for full performance of this Agreement unless the City expressly releases the Developer in writing.
- 18.2. **Recording.** This Agreement shall be recorded against the Property by the City. Further, the Developer agrees that the Final Plat will be filed with Carver County, Minnesota, within 6 months of the date that the Final Plat is approved by the City Council.
- 18.3. **Compliance.** Use of the Property shall be consistent and comply with federal, state, and local regulation.
- 18.4. **Interest on Past Due Amounts.** In addition to all other remedies available to the City under this Agreement, amounts owed the City and not paid when due shall accrue interest at the rate of 8% per annum from the date due until the date actually paid.
- 18.5. **Construction of Agreement.** This Agreement, the attached exhibits, the incorporated instruments pursuant to Section 1 of this Agreement and any addenda or amendments signed by the parties shall constitute the entire agreement between the parties, and they supersede any other written or oral agreements between the parties as it relates to the terms and obligations contained herein. The word "including" shall mean including without limitation. The parties intend that each representation, warranty, and covenant contained in this Agreement have independent significance. The captions used in this Agreement are for convenience only and do not constitute terms of the Agreement. Whenever required by the context of the Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neutral genders, and vice versa.

- 18.6. **Warranty of Authority.** The Developer warrants and guarantees it has the authority to enter into this Agreement and to make it a covenant on the Property binding all current and future owners.
- 18.7. **Attorneys' Fees.** The City and the Developer agree that, if a suit or action is brought to enforce the terms of this Agreement, or if an action is brought upon a letter of credit furnished by the Developer as provided herein, the non-prevailing party shall pay the prevailing party's reasonable attorneys' fees and legal costs.
- 18.8. **Severability.** If one or more of the provisions contained in this Agreement are found to be invalid, illegal, or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions, and any application thereof, shall not be affected or impaired.
- 18.9. **Data Practices Compliance.** The Developer will have access to data collected or maintained by the City to the extent necessary to perform the Developer's obligations under this Agreement. The Developer agrees to maintain all data obtained from the City, as it relates to the Municipal Improvements, in the same manner as the City is required under the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13 or other applicable law (the "**Act**"). The Developer will not release or disclose the contents of data classified as not public to any person except at the written direction of the City. Upon receipt of a request to obtain and/or review data as defined in the Act, the Developer will immediately notify the City. The City shall provide written direction to the Developer regarding the request within a reasonable time, not to exceed 10 days. The City agrees to indemnify, hold harmless and defend the Developer for any liability, expense, cost, damage, claim, and action, including reasonable attorneys' fees arising out of, or related to, the Developer complying with the City's direction. Subject to the above, the Developer agrees to defend and indemnify the City from any claim, liability, damage, or loss asserted against the City because of the Developer's failure to comply with the requirements of the Act. Upon termination and/or completion of this Agreement, the Developer agrees to return all data to the City, as requested by the City.
- 18.10. **Governing Law.** This Agreement shall be governed by, construed, and enforced in accordance with the laws of Minnesota.
- 18.11. **Time is of the Essence.** Time is of the essence in the performance of the terms and obligations of this Agreement.
- 18.12. **Survival.** Any obligations in this Agreement to indemnify or hold another party harmless shall survive the expiration or earlier termination of this Agreement.
- 18.13. **Modification.** Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party. It is understood subsequent agreements may be necessary to complete the understandings of the parties relating to necessary improvements and uses of the Property.

- 18.14. **Prior Development Agreements.** If the City is a party to another development agreement regarding the Property, there shall be no merger of this Agreement with the prior agreement. If any provision of this Agreement conflicts with a provision in a prior development agreement, the provision contained in this Agreement shall control.
- 18.15. **Non-Waiver.** The action or inaction of the City or the Developer shall not constitute a waiver or amendment of the provisions of this Agreement. The waiver by or the failure of the City or the Developer to enforce any particular section, portion, or requirement of this Agreement at any particular time shall not in any way constitute a waiver of any other section, provision, requirement, time element, or the right to enforce such provision at a subsequent time. To be binding, any amendments or waivers shall be in writing, signed by the parties and approved by written resolution of the City Council. The City's or the Developer's failure to promptly take legal action to enforce this Agreement shall not be a waiver or release.
- 18.16. **Cumulative Rights.** Each right, power, or remedy herein conferred upon the City or the Developer is cumulative and in addition to every other right, power, or remedy, express or implied, now or hereinafter arising, available to the City or the Developer, at law or in equity, or under any other agreement, and each and every right, power, and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the City or the Developer and will not be a waiver of the right to exercise at any time thereafter any other right, power, or remedy.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

[Signature pages follow.]

SIGNATURE PAGE TO DEVELOPMENT AGREEMENT FOR SANDY SHORES

CITY OF WACONIA

By: _____
Nicole Waldron
Its: Mayor

By: _____
Jacqueline Schulze
Its: City Clerk

STATE OF MINNESOTA)
)
COUNTY OF CARVER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Nicole Waldron and Jacqueline Schulze, the Mayor and City Clerk, respectively, of the City of Waconia, a Minnesota municipal corporation under the laws of Minnesota, on behalf of the municipal corporation.

Notary Public

SIGNATURE PAGE TO DEVELOPMENT AGREEMENT FOR SANDY SHORES

_____, INC.

By: _____
_____, President

STATE OF MINNESOTA)
)
COUNTY OF CARVER _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by _____, President, _____, Inc., a Minnesota corporation, for and on behalf of the corporation.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

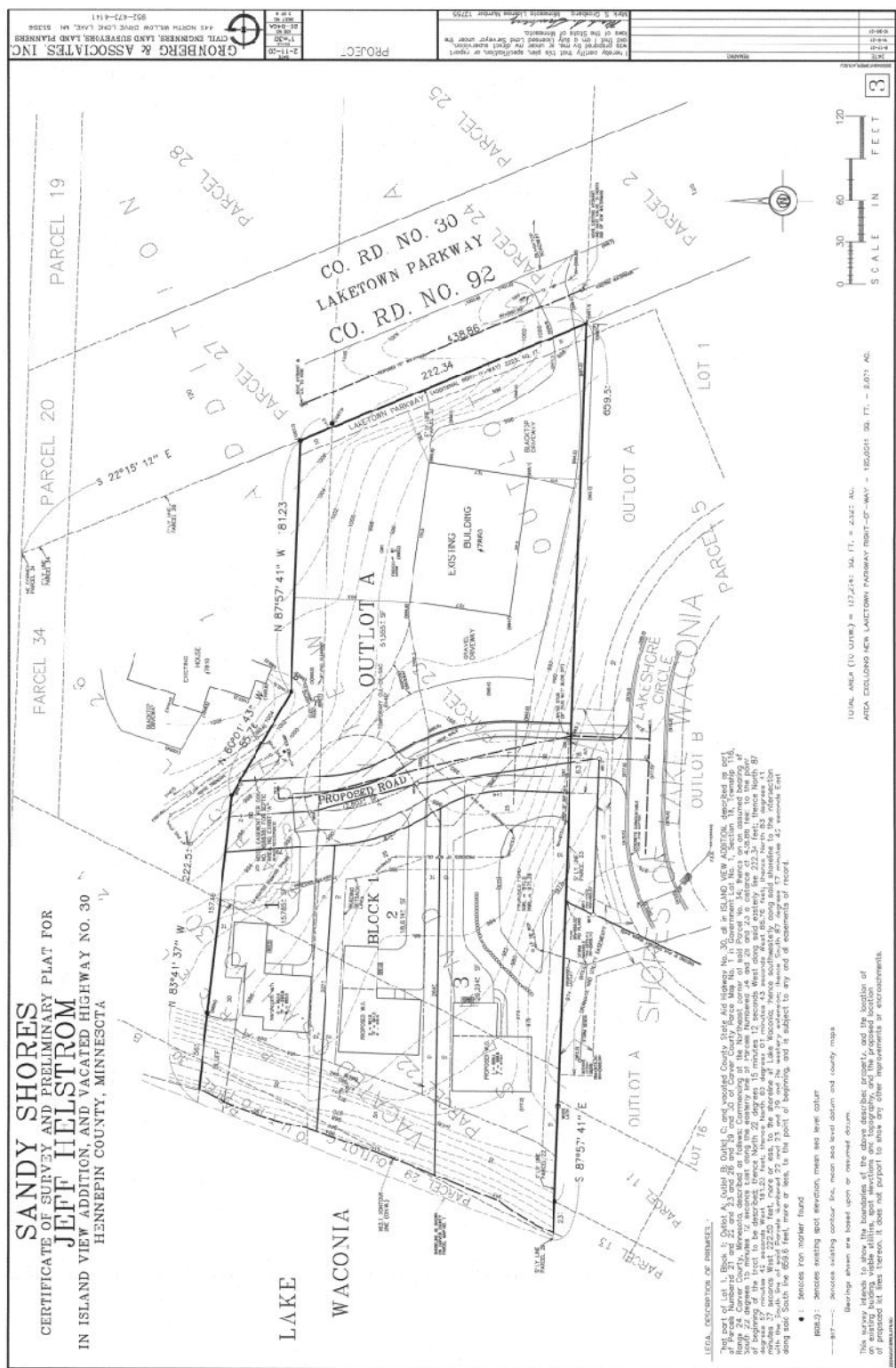
Lane L. Braaten – Community Development Director
City of Waconia
201 South Vine Street
Waconia, Minnesota 55387
(952) 442-3106

EXHIBIT A
Legal Description

LEGAL DESCRIPTION OF PREMISES :

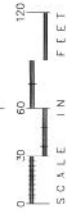
That part of Lot 1, Block 1; Outlot A; Outlot B; Outlot C; and vacated County State Aid Highway No. 30, all in ISLAND VIEW ADDITION, described as part of Parcels Numbered 21 and 22 and 23 and 26 and 29 and 30 of Carver County Parcel Map No. 1 in Government Lot No. 1, Section 18, Township 116, Range 24, Carver County, Minnesota, described as follows: Commencing at the Northeast corner of said Parcel No. 34; thence on an assumed bearing of South 22 degrees 15 minutes 12 seconds East along the easterly line of Parcels Numbered 34 and 26 and 23 a distance of 438.86 feet to the point of beginning of the tract to be described; thence North 22 degrees 15 minutes 12 seconds West along said easterly line 222.34 feet; thence North 87 degrees 57 minutes 42 seconds West 181.23 feet; thence North 60 degrees 01 minutes 43 seconds West 85.76 feet; thence North 83 degrees 41 minutes 37 seconds West 222.50 feet, more or less, to the shoreline of Lake Waconia; thence southwesterly along said shoreline to the intersection with the South line of said Parcels Numbered 22 and 23 and 29 and its westerly extension; thence South 87 degrees 57 minutes 42 seconds East along said South line 659.6 feet, more or less, to the point of beginning, and is subject to any and all easements of record.

Preliminary Plat for Sandy Shores



[illegible]

Landscape Plans





REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Statewide Volunteer Firefighter Plan					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):							
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-230, Approving Increase in benefit level for firefighters							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The pension benefit administered by Public Employee Retirement Association for fire fighters via the Statewide Volunteer Firefighter Plan (SVF) was reviewed this year to evaluate the capacity for a benefit level increase. The benefit level was last increased in 2022 at \$5,700 per year of vested service for eligible retirees. The benefit level was not increased in 2023 due to the recent increase in 2022 and funding ratios evaluated not at a level comfortable for the officers of the Fire Relief Association. The recent evaluation performed by PERA demonstrates that a benefit level increase up to \$6,200 per year of service would retain a funding ration that exceeds 120%, which means the fund is in strong financial position to make this commitment and would not require additional financial contribution by the city. The evaluation was reviewed by the Fire Relief Association officer group and they support the benefit level increase to this amount. If approved the benefit level increase would become effective for eligible retirees in 2024.							
<u>Attachments:</u>							
1. 2023-230 res_Relief_Benefit_Level_RES.docx 2. SVF Benefit Analysis.pdf							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information: _____ Budgeted _____ Non Budgeted _____ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-230**

**A RESOLUTION OPTING TO INCREASE THE BENEFIT LEVEL FOR
FIREFIGHTERS WHO ARE VESTED IN THE STATEWIDE VOLUNTEER
FIREFIGHTER PLAN**

The City Council of the City of Waconia, Minnesota, does ordain:

WHEREAS, The City previously authorized the fire department to join the Statewide Volunteer Firefighter Plan administered by the Public Employees Retirement Association (PERA); and

WHEREAS: The City requested and obtained a cost analysis of increasing the benefit level for firefighters who are vested in the Statewide Volunteer Firefighter Plan from PERA not more than 120 days ago; and

WHEREAS: The City understands that Minnesota statute allows an increase in benefit levels if the plan is fully funded, but does not have provisions for a decrease in benefit levels; and

WHEREAS: The City highly values the contributions of City Fire Department members to the safety and well-being of our community and wishes to safeguard their pension investments in a prudent manner.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WACONIA, MINNESOTA:

- 1) The City hereby approves an increase in the benefit level for firefighters who have completed at least 5 years of good time service credit as a member of the Statewide Volunteer Firefighter Plan administered by PERA at the \$6,200.00 benefit level per year of service, effective January 1, 2024; and
- 2) The Administrator and Mayor are hereby authorized to execute all documents necessary to effectuate the intent of this resolution.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk



Cost Analysis Report

Estimate of the Cost of a Benefit Level Increase
in the Statewide Volunteer Firefighter Plan

July 12, 2023

PERA ID
8194-00

Governing Body and Fire Chief
Waconia Fire Department

jsorensen@waconia.org; nmeyer@waconia.org; sfineran@waconia.org

Estimated Cost Summary: Shown below is a summary of the calculations estimating the cost of increasing the benefit level per year of service for your volunteer firefighters in the Statewide Volunteer Firefighter (SVF) Plan. Detailed pension liability and asset calculations are included in the subsequent pages of this *Cost Analysis Report*.

A. Benefit Level per Year of Service	\$ 5,900	\$ 6,000	\$ 6,100	\$ 6,200
B. Projected Present Pension Assets at 12/31/23 (details attached)	2,415,812	2,415,812	2,415,812	2,415,812
C. Projected Accrued Pension Liability at 12/31/23 (details attached)	1,904,819	1,930,608	1,956,398	1,982,335
D. Projected Surplus/(Deficit) Funding at 12/31/23 [B - C]	510,993	485,204	459,414	433,477
E. Projected Funding Ratio at 12/31/23 [B ÷ C]	127%	125%	123%	122%
F. Projected Accrued Pension Liability at 12/31/24 (details attached)	2,065,298	2,093,828	2,122,359	2,150,984
G. Increase in Pension Liability between 12/31/23 and 12/31/24 [F - C]	160,480	163,220	165,961	168,648
H. PERA Administrative Fees (\$30 per member)	1,380	1,380	1,380	1,380
I. 1/10th of Funding Deficit/(Surplus) [D ÷ 10]	(51,099)	(48,520)	(45,941)	(43,348)
J. Annual Financial Requirement [G + H + I]	110,760	116,080	121,399	126,681
<u>Reductions to Annual Financial Requirement</u>				
K. Projected 2024 Fire State Aid	116,843	116,843	116,843	116,843
L. Projected 2024 Investment Earnings [6% x B]	144,949	144,949	144,949	144,949
M. Annual Financial Requirement <u>After</u> Reductions [J - K - L]	(151,032)	(145,712)	(140,393)	(135,112)
N. Estimated Required Contribution due 12/31/24 ("None" if Line M is a negative amount)	None	None	None	None

Please note that these are estimates only. The figures shown above on Line N are estimates of required contributions that would be due from the fire department's governing body on December 31, 2024 under the benefit level(s) considered. If you choose to increase the benefit level for your fire department effective January 1, 2024, PERA will calculate and, if applicable, issue an invoice to the fire department's governing body for any required contribution due December 31, 2024. Using the most current financial and firefighter roster information available, PERA calculates required contributions in accordance with Minnesota Statutes 353G.08, Subdivision 1.

These estimates are based on the member information available at the time PERA prepared this cost analysis. Please review the membership information and provide us with any necessary corrections. As applicable, PERA will prepare an updated cost analysis with the corrected member information provided.

If you have questions, please contact PERA by email at PERASVF@mnpera.org or by phone at 651-201-2645.

Sincerely,

PERA Accounting Division



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: November 6, 2023

Item Name: 2024 Prosecution Contract

Originating Department: Administration

Presented by: Shane Fineran

Previous Council Action (if any):

Item Type (X only one):	Consent	☒ X	Regular Session		Discussion Session	
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RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Adopt Resolution #2023-231, Approving 2024 Prosecution Contract

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

The Carver County Attorney's Office has provided the contract costs for 2024. The contract costs will increase from \$16,728.98 to \$16,903.48 in 2024. County Attorney Mark Metz presented during the October 16th meeting period to provide the City Council an update on the contract, services, and case numbers.

The City contracts for all gross misdemeanor, misdemeanor, and petty misdemeanor ordinance offenses in the City of Waconia. The contract rate is a 3-year average of cases within the community shared with other cities in the County that contract for prosecution services.

The contract rate was budgeted for in the 2024 preliminary levy amount and general fund budget. It is recommended that the contract be approved.

Attachments:

1. [2023-231 res_Prosecution_Contract_RES.docx](#)
2. [2024 Prosecution Contract_Waconia.docx](#)
3. [Prosecution Contracts for 2024.pptx](#)

FINANCIAL IMPLICATIONS:

Funding Sources & Uses:

General Fund, Contract Services

ADVISORY BOARD RECOMMENDATIONS:

Budget Information:

_____ Budgeted

_____ Non Budgeted

_____ Amendment Required

Planning Commission

Parks and Recreation Board

Safari Island Advisory Board

Other

**CITY OF WACONIA
RESOLUTION NO. 2023-231**

**RESOLUTION AUTHORIZING EXECUTION OF
JOINT POWERS AGREEMENT PROSECUTION CONTRACT**

WHEREAS, The Carver County Attorney (the “Attorney”) offers to provide certain prosecution services for the City of Waconia (the “City”); and

WHEREAS, The Attorney will provide for the prosecution of statutory gross misdemeanor, misdemeanor and petty misdemeanor violations, excluding certain liquor law violations, and the cost of said prosecution services shall be provided by the City contributing an additional one-third (1/3) of all fine and penalties to Carver County; and

WHEREAS, The Attorney may provide other prosecution services for ordinance violations and will not charge an additional fee; and

WHEREAS, The Attorney will charge the City \$16,903.48 for 2022; and

WHEREAS, The City desires to obtain these prosecution services.

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Waconia that:

1. The Joint Powers Agreement Prosecution Contract is hereby approved, conditioned upon adoption of the 2024 General Fund Budget.
2. The Mayor and City Administrator are hereby authorized and directed to execute said Agreement on behalf of the City.

Adopted by the City Council of the City of Waconia this 6th of November 2023.

Nicole Waldron, Mayor

ATTEST:

Jacqueline Schulze, Assistant City Administrator

2024 PROSECUTION CONTRACT

THIS JOINT POWERS AGREEMENT is made and entered into between the Carver County Attorney, the Carver County Board of Commissioners, a political subdivision of the State of Minnesota, and the City of Waconia, a municipal corporation organized under the laws of the State of Minnesota, to provide for prosecution of statutory gross misdemeanor, misdemeanor and petty misdemeanor violations, other than liquor law violations directly involving establishments, organizations or individuals with liquor licenses or permits issued by the City of Waconia and also to provide for prosecution of municipal traffic and parking ordinance violations.

WHEREAS, Minnesota Statutes Section 471.59 authorizes governmental units in the State of Minnesota to enter into agreements by resolution with any other governmental unit to perform on behalf of that unit any service or function which that unit would be authorized to provide for itself; and

WHEREAS, Minnesota Statutes Section 484.87, Subdivision 3, provides that statutory gross misdemeanor, misdemeanor, petty misdemeanor violations and municipal ordinance violations in the counties of Anoka, Carver, Dakota, Scott and Washington shall be prosecuted by the attorney of the municipality where the violation is alleged to have occurred and further provides that municipalities may enter into three party agreements with the County Board and the County Attorney to provide for prosecution services for criminal offenses; and

WHEREAS, each of the parties hereto desires to enter into this Joint Powers Agreement and has, through the actions of its respective governing bodies, been duly authorized to enter into this Joint Powers Agreement for the purposes hereinafter stated;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed by and between the County of Carver, through the Board of Commissioners, the Carver County Attorney, and the City of Waconia, through its Council, that:

1. Enabling Authority.

Minnesota Statutes Section 471.59 authorizes two or more governmental units to jointly exercise any power common to the contracting parties. Minnesota Statutes Section 484.87, Subdivision 3 authorizes the City of Waconia to enter into an agreement with the County of Carver and the Office of the Carver County Attorney to provide for prosecution services for criminal offenses.

2. Purpose

Provide for prosecution of statutory gross misdemeanor, misdemeanor and petty misdemeanor violations, other than liquor law violations directly involving establishments, organizations or individuals with liquor licenses or permits issued by the City of Waconia and also to provide for prosecution of municipal traffic and parking ordinance violations.

3. Services.

The Carver County Attorney's Office shall prosecute statutory gross misdemeanor, misdemeanor, petty misdemeanor violations and, any other criminal municipal ordinance violation. The Carver County Attorney shall also prosecute all municipal traffic and parking ordinance violations allegedly occurring within the jurisdiction of the municipality and within Carver County.

4. Term.

Prosecution services shall be rendered by the Carver County Attorney's Office commencing January 1, 2024, and extending through December 31, 2024.

5. Payment for Services.

In consideration for prosecution services being rendered, the County shall collect one-half (1/2) of all funds allocated pursuant to Minnesota Statute Section 484.90, Subdivision 6(a)(1) (fines that the court administers allocates 100% to the fines to the city or town in which the offense was committed) and one-third (1/3) allocated pursuant to Minnesota Statute Section 484.90, Subdivision 6(a)(2) (fines that the court administers allocates two-thirds to the fines to the city or town in which the offense was committed). An additional surcharge calculated on the percentage of cases and fine revenue in the amount of \$16,903.44 is to be paid by the City of Waconia to the Carver County Attorney's Office in four equal installments by April 15, 2024, July 15, 2024, October 15, 2024 and January 15, 2025.

6. Ordinances.

The City shall forward current traffic ordinances to the Carver County Attorney's Office and immediately inform the County Attorney of any changes made during the contract period.

7. Data.

All data collected, created, received, maintained or disseminated in any form for any purposes by the activities of this Agreement is governed by the Minnesota Data Practices Act, Minnesota Statute Section 13, or the appropriate Rules of Court and shall only be shared pursuant to laws governing that particular data.

8. Audit.

Pursuant to Minnesota Statute Section 16C.05, Subdivision 5, the parties agree that the State Auditor or any duly authorized representative at that time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt,

and transcribe any books, documents, papers, records, etc. which are pertinent to the accounting practices and procedures related to this Agreement. All such records shall be maintained for a period of six (6) years from the date of termination of this Agreement.

9. Indemnification.

Each party shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the other, its officers and employee may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the party, its agents, servants or employees, in the execution or performance or failure to adequately perform its obligations pursuant to this Agreement.

It is understood and agreed that liability shall be limited by the provisions of Minnesota Statutes Chapter 466. This Agreement to indemnify and hold harmless does not constitute a waiver by any participant of limitations on liability provided under Minnesota Statutes Section 466.04.

It is further understood that Minnesota 471.59, Subd. 1a applies to this Agreement. To the full extent permitted by law, actions by the parties pursuant to this Agreement are intended to be and shall be construed as a "cooperative activity" and it is the intent of the parties that they shall be deemed a "single governmental unit" for the purposes of liability, all as set forth in Minnesota Statutes Section 471.59, Subd. 1a(a); provided further that for purposes of that statute, each party to this Agreement expressly declines responsibility for the acts or omissions of the other party.

Each party agrees to promptly notify the other party if it knows or becomes aware of any facts or allegations reasonably giving rise to actual or potential liability, claims, causes of action, judgments, damages, losses, costs or expenses, including attorney's fees, involving or reasonably likely to involve the other party, and arising out of acts or omissions related to this Agreement.

10. Nonwaiver, Severability and Applicable Laws.

Nothing in this Agreement shall constitute a waiver by the parties of any statute of limitation or exceptions on liability.

If any part of this Agreement is deemed invalid such shall not affect the remainder unless it shall substantially impair the value of the Agreement with respect to either party. The parties agree to substitute for the invalid provision a valid one that most closely approximates the intent of the Agreement.

The laws of the State of Minnesota apply to this Agreement.

11. Termination.

This Agreement shall terminate of its own accord without further action taken or notice given by either party at midnight, December 31, 2024.

12. Merger and Modification.

It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement and signed by the parties hereto.

Space Intentionally Left Blank

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed by its

appropriate officers and with the consent and approval of its appropriate governing bodies.

CITY OF WACONIA

IN PRESENCE OF:

BY: _____
Mayor

City Administrator

Date: _____

Date: _____

COUNTY ATTORNEY

Mark Metz
Carver County Attorney

Date: _____

IN PRESENCE OF:

COUNTY OF CARVER

BY: _____
Dave Hemze
County Administrator

Date: _____

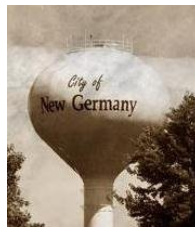


2024 Prosecution Contract

Carver County Attorney's Office

Who We Serve

Carver
Chaska
Cologne
Hamburg
Mayer
New Germany
Norwood
Young America
Victoria
Waconia
Watertown



Determination of Contract Fees

County Attorney Staff Costs	\$178,928
<i>Less Total Fine Revenue paid to Carver County Attorney's office in 2022</i>	<i>(\$ 83,806)</i>
<i>County Cost Allocation</i>	<i>(\$ 14,544)</i>
Equals Total Surcharge to be paid in 2024	\$ 80,579

Participating cities pay surcharge quarterly per their three-year case load average (see chart later in presentation) Surcharge includes 6.5% county personnel cost allowance

Cases by Location (2020 – 2022)

Cases listed: Adult (PM/MD/GM)					Updated: 06/21/2023
	2020	2021	2022	3 Yr Avg	% Total
Carver	52	77	55	61	7.49%
Chaska	377	345	312	345	42.12%
Cologne	12	13	8	11	1.34%
Hamburg	8	4	6	6	0.73%
Mayer	22	22	13	19	2.32%
New Germany	8	5	3	5	0.65%
Norwood Young America	77	41	44	54	6.60%
Victoria	82	53	83	73	8.88%
Waconia	187	176	152	172	20.98%
Watertown	79	60	79	73	8.88%
	904	796	755	818	100.00%

Usage and Rate Comparison

With usage change	2023	2024		2023	2024	
and 6.5% increase	Contract	Contract	Change	Contract	Contract	Change
	3 Yr Avg	3 Yr Avg	+/-	Rate	Rate	+/-
Carver	7.18%	7.49%	0.31%	\$7,318.93	\$6,039.29	\$ (1,279.64)
Chaska	44.15%	42.12%	-2.03%	\$32,792.60	\$33,938.18	\$ 1,145.57
Cologne	1.88%	1.34%	-0.54%	\$1,235.66	\$1,083.13	\$ (152.53)
Hamburg	0.70%	0.73%	0.03%	\$380.20	\$590.80	\$ 210.60
Mayer	2.43%	2.32%	-0.11%	\$2,091.12	\$1,870.87	\$ (220.26)
New Germany	0.74%	0.65%	-0.09%	\$475.26	\$525.16	\$ 49.90
Norwood Young America	6.96%	6.60%	-0.36%	\$3,897.09	\$5,317.20	\$ 1,420.11
Victoria	8.39%	8.88%	0.49%	\$5,037.70	\$7,155.24	\$ 2,117.54
Waconia	20.10%	20.98%	0.88%	\$16,728.98	\$16,903.44	\$ 174.46
Watertown	7.47%	8.88%	1.41%	\$5,703.06	\$7,155.24	\$ 1,452.18
				\$ 75,660.61	\$ 80,578.55	\$ 4,917.94

County Attorney Update:

- Veteran's Court
- Drug Court
- Opioid Settlement
- Other trends in the County Attorney's Office

Our Office

Mark Metz, County Attorney

Peter Ivy, Chief Deputy

Rhonda Betcher, Executive Assistant

John Rekow, Law Office Manager

Nancy Yates, Victim Witness Manager

1 Victim Witness Coordinator

1 Victim Witness Legal Admin

17 Assistant County Attorneys

2.5 Paralegals

6 Legal Administrative Assistants

1 Administrative Assistant

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REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		2024 GIS Analyst Shared Position Agreement with Carver County					
Originating Department:		Administration					
Presented by:		Jackie Schulze					
Previous Council Action (if any):		October 17, 2022 - Adopt Resolution 2022-271, Approving Carver County GIS Analyst Position for 2023					
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-232, Approving Carver County GIS Analyst Position Agreement for 2024							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Attached is the 2024 GIS Analyst Shared Position agreement. This will be the 18th year we have partnered with Carver County and other communities to fund a portion of the GIS Analyst position. This position assists us in developing our GIS database and works approximately 32 hours per month on Waconia related items (8 hours per week). The funding for this position is included in the 2024 budget. Highlights of the changes include: • Change in not to exceed amount to \$64.26 per hour from \$62.40 per hour. This includes all salary and benefits related to the position and may be higher than the actual total costs paid. • Change in contract term from 2023 to 2024							
<u>Attachments:</u>							
1. GIS Analyst Shared Position Agreement - Waconia.doc 2. 2023-232_GIS_Shared_Position.docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
_____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

Carver County GIS Analyst Shared Position Agreement

THIS AGREEMENT is entered into by and between the County of Carver, 604 East 4th Street, Chaska, Minnesota 55318, hereinafter referred to as “Carver County” and the City of Waconia, 201 South Vine Street, Waconia, MN 55387, hereinafter referred to as “Participating Agency”.

WHEREAS, Carver County is the employer of the GIS Analyst shared position; and

WHEREAS, Participating Agency will be allocated a percentage of hours per week for the GIS Analyst to work on Participating Agency projects; and

WHEREAS, Carver County and Participating Agency would like to arrange an opportunity to create a stronger GIS relationship, to assure uniformity, accuracy, and standards of GIS data created and used within the county, and to greatly reduce duplication of effort and expense related to GIS projects, including data collection and data maintenance; and

WHEREAS, Carver County and Participating Agency can share GIS data between organizations to help support GIS applications; and

WHEREAS, Carver County and Participating Agency can both benefit from a partnership agreement that serves to share resources and GIS knowledge between organizations in order to provide enhanced GIS services.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. PURPOSE

- 1.01 Strengthen the delivery county GIS service, which will bring uniformity, heightened, and predictable standards for created GIS data used within Carver County. This will reduce costs, expenses and duplication of efforts in GIS endeavors including data collection and data maintenance. This sharing is authorized Minnesota Statutes, Section 471.59.

2. DEFINITIONS

- 2.01. Geographic Information System or GIS is a system used to visualize and analyze geographic features and data related to them. This is accomplished using specialized computer software and data. The term GIS has become loosely used to encompass software, data, analysis, and maps related to computerized mapping and geographic analysis.
- 2.02. GIS Analyst works with related software and programs to create and maintain data and/or maps that can be combined with geographically referenced data. GIS software has the capacity to relate different types of data such as socioeconomic, demographic, administrative or political boundaries, land use, land cover, environmental, infrastructure, utilities and transportation networks.

- 2.03. Participating Agency is any participating entity that has executed a copy of this Agreement.
- 2.04. Work Week equals 40 Hours
- 2.05. Work Place will be the Carver County Courthouse, located at 604 East Fourth Street, Chaska, MN.
- 2.06. Commute Miles are the distance you travel from your home to your usual work place. If you leave from home and travel to a Participating Agency by personal auto, the amount of miles claimed should be the lesser of the distance from your home to the destination or the distance from your usual work place to the destination.

3. FUNDING

- 3.01. The Participating Agency is responsible for funding 8 hours of work per week of the shared position. The hours funded per week equal 20% of the overall funding of the position per week.
- 3.02. The cost of the hourly wage will be based upon Carver County's pay scale for a GIS Analyst position at the Grade and Step of the hired employee. The cost will include all benefits offered by Carver County. The cost for this agreement is not to exceed \$64.26 per hour.
- 3.03. All holidays, sick leave, vacations, and training costs will be divided among Carver County and all Participating Agencies by their percentage of funding of the shared position for a work week stated in 2.01.
- 3.04. Participating Agency will be invoiced by Carver County on a quarterly basis. March 31st, June 30th, September 30th and December 31st.
- 3.05. The shared position will attempt to take a County vehicle when applicable and available to travel to and from the work place to a Participating Agency or between Participating Agencies. If a vehicle is not available, the shared position's mileage will be reimbursed when traveling by a personal vehicle to and from the work place to the Participating Agencies or between Participating Agencies, based upon the County approved standard mileage rate. Commute miles are not reimbursed. The mileage reimbursement will be split by all the Participating Agencies and the County equally and included in the quarterly invoice.
- 3.06. Mileage reimbursement costs while the shared position is on-site doing job related tasks for the Participating Agency is the responsibility of the Participating Agency.
- 3.07. Printing on the county's plotter is an option for Participating Agencies at a cost of \$2 per square foot.

4. CARVER COUNTY COMMITMENT

- 4.01. During the term of this agreement Carver County will employ and supervise a GIS Analyst qualified to perform the services required by this Agreement and withholding taxes and paying all other employment tax obligation on their behalf. GIS Analyst will be an employee of Carver County. Unless stated otherwise in this agreement, the County shall be solely responsible for hiring, training, supervising, promoting, discipline, and terminating the GIS Analyst. The County's responsibility will include

being responsible for worker's compensation, unemployment insurance, medical care, sick leave, vacation leave, severance pay, PERA, or other benefits available to County employees, including indemnification for third party personal injury/property damage claims, shall accrue to the County or employees of the County performing services under this Agreement. The GIS Analyst is anticipated to be a member of collective bargaining unit.

- 4.02. During the term of this agreement Carver County will provide the Participating Agency a summary of hours used, hours remaining, and a detailed summary of hours logged on Participating Agency's projects. The time to maintain these records will be done by the shared position on the Participating Agency's hourly time. These reports will be provided with the quarterly invoice. The report will be kept up-to-date and can be requested by the Participating Agency at anytime.
- 4.03. Carver County GIS Unit under the Information Technology Department within Administrative Services Division will oversee and supervise the shared position. The shared position will apply to all rules and policies of Carver County.
- 4.04. Carver County will provide an email address, phone and computer for the shared position.
- 4.05. Carver County will hire the shared position based upon an agreement from all Participating Agencies.
- 4.06. The Participating Agency Contracts with the County for GIS Services. In this agreement the GIS Analysts will provide the Participating Agency with the following services:
 - 4.06.1.
 - Map production
 - GIS data maintenance and management
 - ArcGIS Online administration
 - GIS solution implementation
 - GIS software support
 - GPS support
 - GIS training

5. PARTICIPATING AGENCY COMMITMENT

- 5.01. Participating Agency will provide a primary person of contact for the shared position. This person will prioritize the work the shared position will conduct for their agency. This person will also be the recipient of the invoice and hourly summary statistics provided by Carver County.

Participating Agency Contact Information

Name: _____

Title: _____

Phone: _____

Email: _____

- 5.02. Participating Agency will provide a list of potential projects within Attachment A.
- 5.03. Participating Agency will send at least one representative to participate in the hiring process of the shared position.
- 5.04. Participating Agency will provide feedback on the GIS Analyst's yearly performance review process.

6. AGREEMENT TERM

6.01. The term of this Agreement shall commence upon January 1, 2024 or upon its execution by Carver County and the Participating Agency, whichever occurs later. This Agreement shall remain effective until December 31, 2024.

6.02. It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter.

6.03. Any material alteration, modification, or variation shall be reduced to writing as an amendment and signed by the parties.

This Agreement may be cancelled with or without cause by any party upon 120 days written notice. The participating agency shall still be responsible for its financial obligation as described in 3 Funding.

6.04. Nothing in this Agreement shall constitute a waiver by the County of any statute of limitations or exceptions on liability. If the County fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.

If any part of this Agreement is rendered void, invalid or unenforceable, by a court of competent jurisdiction, such rendering shall not affect the remainder of this Agreement unless it shall substantially impair the value of the entire Agreement with respect to either party. The parties agree to substitute for the invalid provision a valid provision that most closely approximates the intent of the invalid provision.

6.05. Each party shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorney's fees which the other, its officers and employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the party, its agents, servants or employees, in the execution or performance or failure to adequately perform its obligations pursuant to this Agreement. It is understood and agreed that each Party's liability shall be limited by the provisions of Minnesota Statute § 466 and/or other applicable law.

6.06. All data collected, created, received, maintained, or disseminated, in any form, for any purposes by the activities of the Parties because of this Agreement is governed by the

Minnesota Government Data Practices Act Minn.Stat.Chap.13 and related statutes), as amended, the Minnesota Rules implementing such Act, as amended, as well as Federal Regulations on data privacy.

- 6.07. Neither Party shall not enter into any subcontract for the performance of any services contemplated under this Agreement without the prior written approval of the other Party and subject to such conditions and provisions as it may deem necessary. The subcontracting Party shall be responsible for the performance of all Subcontractors.
- 6.08. No party may assign or transfer any rights or obligations under this Agreement without the prior consent of the other Parties and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this Agreement, or their successors.
- 6.09. During the performance of this Agreement, the Parties agrees to the following: No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance status, criminal record, creed or national origin be excluded from full employment rights in, participation in, be denied the benefits of or be otherwise subjected to discrimination under any and all applicable
- 6.10. The Laws of the State of Minnesota shall apply to this Agreement.
- 6.11. Default in this Agreement may occur when a Party fails to perform any of the provisions of this Agreement or so fails to administer the work as to endanger the performance of the Agreement. Unless the Party's default is excused by the non-defaulting Party, the non-defaulting party may, upon written notice to the defaulting party representative listed herein, cancel this Agreement in its entirety as indicated in (6.12) below.
- 6.12. Each Party to this agreement reserves the right to withdraw from and cancel this agreement within 30 days from the opening of bids for the project in the event either or both parties consider any or all bids unsatisfactory; the withdrawal form or cancellation of the agreement to be accomplished by either or both parties within 30 days of opening of bids by serving a written notice thereof upon the other, unless this right is waived by both parties in writing.
- 6.13. Pursuant to Minn. Stat. §16C.05, subd. 5, the parties agree that the County, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the parties and involve transactions relating to this Agreement. Parties agree to maintain these records for a period of six years from the date of termination of this Agreement.

Neither party shall be held responsible for delays or failure to perform when such delays or failure is due to any of the following uncontrollable circumstances: fire, flood epidemic, strikes, wars, acts of God, unusually severe weather, actions of public authorities, or delays or defaults cause by public carrier(s); providing the defaulting party gives notice as soon as possible to the other party of the inability to perform.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

PARTICIPATING AGENCY

COUNTY OF CARVER

By: _____

By: _____

Title: _____

Title: _____

Date of Signature: _____

Date of Signature: _____

**CITY OF WACONIA
RESOLUTION NO. 2023-232**

**RESOLUTION APPROVING CARVER COUNTY GIS ANALYST
SHARED POSITION AGREEMENT**

WHEREAS, the City of Waconia and Carver County desire to assure uniformity, accuracy, and standards of GIS data created and used within the County; and

WHEREAS, the City of Waconia and Carver County have developed an agreement whereby both can benefit from the partnership; and

WHEREAS, the City finds this partnership to be in the best interests of the community; and

WHEREAS, funds have been allocated in the 2024 budget for the City's share of this shared position.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Waconia hereby authorizes the City Administrator to execute the Carver County GIS Analyst Shared Position Agreement, conditioned upon adoption of the 2024 General Fund Budget.

Adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Authorize Hire for Administration Specialist					
Originating Department:		Administration					
Presented by:		Jackie Schulze					
Previous Council Action (if any):		September 5, 2023: Authorize Recruitment for Administration Specialist					
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-233, Approving Administration Specialist Hire							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
In September, the City Council accepted the resignation of the Administration Office Assistant and authorized recruitment. We received over 50 applications for the position, and scheduled eight candidates for interview. Ultimately six were interviewed, due to two cancellations. Following the interviews, City staff recommend hiring Sue Schwalbe for this role. Sue has 24 years of municipal experience with the cities of Golden Valley, Albertville, and Mound. She has worked in various roles, including planning, finance, administrative, and deputy clerk. She has experience in almost every single area outlined in the job description, and we feel she would not have a steep learning curve in terms of the ins and outs of this position. With three elections in 2024, it is important to hire someone who is able to jump right in. Sue will start at Step 5 of the Office Assistant pay scale and accrue PTO at the five-year rate to recognize her years of public sector experience. She will start with a 60 hour PTO bank, similar to recent hires with similar experiences. Her start date is scheduled to be on November 27.							
<u>Attachments:</u>							
1. 2023-233_Admin_Specialist.docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:				Personnel Committee: Recommend			
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
_____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023 - 233**

**RESOLUTION AUTHORIZING
ADMINISTRATION SPECIALIST HIRE**

WHEREAS, on September 5, 2023, the City Council authorized the recruitment for the Administration Specialist position; and

WHEREAS, the City recently completed a recruitment process for this position; and

WHEREAS, staff recommend the appointment of Sue Schwalbe to this position;

WHEREAS, Sue will start at Step 5 on the Office Assistant pay scale, accrue PTO at the five year accrual rate, with a bank of 60 PTO hours; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Waconia authorizes the hire of Sue Schwalbe, effective November 27, 2023.

Adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Ordinance 767 Amending Chapter 700 of City Code: Nuisances					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):							
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Ordinance #767- Amending Chapter 700 and Repealing Redundant Sections Adopt Resolution #2023-234 - Authorizing Summary Publication of Ordinance #767							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
In August the City Council reviewed ordinances regulating nuisances within the community. The City Council directed that staff review various ordinances and model ordinances that more concisely and effectively regulate nuisance activities within the community. Upon review by the City Attorney it is recommended that Chapter 700 be amended to include restated and revised items to affect noise, stored items, abandoned vehicles, and other nuisances affecting peace and safety be incorporated into Chapter 700 with redundant or conflicted sections regulating these activities in Section 710 and Chapter 720 and 740 be repealed. The repealed section items have been incorporated and restated into Chapter 700. Staff recommend adoption of the amended ordinance and resolution authorizing summary publication.							
Attachments:							
1. ORD 767 Chapter 700 Ordinance Amendment 2. 23-234_Chapter_700_Summary_Publication_Resolution (1).docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information: _____ Budgeted _____ Non Budgeted _____ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

CITY OF WACONIA
ORDINANCE NO. 767

AN ORDINANCE AMENDING CHAPTER 700
REGARDING PUBLIC NUSANCES AND REPEALING SUPERSEDED CODE PROVISIONS

The City Council of the City of Waconia ordains:

FINDINGS AND PURPOSE

The city council of the City of Waconia (the “city”) finds it is appropriate and in the best interests of its citizens to consolidate existing provisions of the Waconia City Code (the “Code”) that address public nuisances into a single chapter, Chapter 700, to make the provisions clearer and better organized. The city council further finds it is appropriate to repeal existing public nuisance provisions of the Code that are outdated or inconsistent/redundant with Chapter 700, as amended. Finally, the city council finds it is appropriate to update the provisions of the Code that address public nuisances given the substantial increase in the city’s population since the city’s public nuisance ordinances were last amended. Given the above findings, the purpose of this ordinance is to: i) amend Chapter 700 of the Code to update the city’s public nuisance ordinances; ii) to repeal outdated nuisance provisions in the code; iii) to repeal provisions of the Code that are now inconsistent or redundant with Chapter 700, as amended, and iv) to update cross-references in the Code, as appropriate.

CHAPTER 700 AMENDMENT

Chapter 700 of the Code, regarding public nuisances, is amended and restated in its entirety to read as follows:

CHAPTER 700. - NUISANCES

Sec. 700.01. - Findings, purpose, and authority.

The city council finds that excessive noise, disruption, and other public nuisance activities are injurious to the health, safety, and welfare of the city’s residents and interfere with the quiet enjoyment of life and property. The purpose of this chapter is to prohibit conduct that is harmful to the health, safety, and welfare of the community and to prevent and abate public nuisance conduct, activity, events, and conditions. The city is authorized to define nuisances and provide for their prevention or abatement pursuant to Minnesota Statutes §412.221, subd. 23; to regulate and prevent noise and other disorder pursuant to Minnesota Statutes §412.221, subd. 24; and to otherwise enact ordinances to protect the general welfare of its residents pursuant to Minnesota Statutes §412.221, subd. 32.

Sec. 700.02. - Definitions.

The following terms, as used in this chapter, shall have the meanings stated in this section:

Audio device means a radio receiving set, television set, musical instrument, music device, paging system, machine, or other device used for the production or reproduction of sound.

Plainly audible means a sound that can be detected by a person using their unaided hearing faculties.

Property or *premises* means a parcel or lot of real property. If contiguous parcels or lots of real property are owned by the same person, these defined terms mean all such contiguous parcels/lots, collectively.

Residence means a structure suitable for affording shelter for human beings, including any appurtenant or connected structure, including trailers, manufactured homes, multiple-family dwellings, and buildings containing multiple dwelling units.

Residential property means a property primarily used as a residence.

Sec. 700.03. - Public nuisances prohibited.

Subd. 1. *General*. A person must not act, or fail to act, in a manner that is or causes a public nuisance.

Subd. 2. *Prohibited conduct*. For purpose of this chapter, a person that does any of the following is guilty of maintaining a public nuisance:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Does any other act or omission declared by law or this ordinance to be a public nuisance.

Subd. 3. *Nuisance affecting health*. The following are hereby declared to be public nuisances affecting health:

- A. The exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;

- D. Carcasses of animals not buried or destroyed within 24 hours after death;
- E. Accumulation of manure, refuse, or other debris;
- F. Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- H. All noxious weeds and other rank growths of vegetation upon public or private property;
- I. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- J. All public exposure of people having a contagious disease; and
- K. Any offensive trade or business as defined by statute not operating under local license.

Subd. 4. *Nuisances affecting morals and decency.* The following are hereby declared to be public nuisances affecting public morals and decency:

- A. All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- B. Betting, bookmaking, and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- D. All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and
- E. Any vehicle used for the unlawful transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Subd. 5. *Nuisances affecting peace and safety.* The following are declared to be public nuisances affecting public peace and safety:

- A. All snow and ice that is not removed from public sidewalks within 24 hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All trees, hedges, billboards, or other obstructions that prevent people from having a clear view of all traffic approaching an intersection;
- C. All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- D. Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise;
- E. All unnecessary and annoying vibrations;
- F. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;
- G. Radio aerials or television antennae erected or maintained in a dangerous manner;
- H. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;
- I. All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- J. The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- K. Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- L. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- M. Wastewater cast upon or permitted to flow upon streets or other public properties;
- N. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank

growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;

- O. Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- P. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- Q. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;
- R. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- S. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel; and
- T. All other conditions or things that are likely to cause injury to the person or property of another.

Sec. 700.04. - Noise.

Subd. 1. *Prohibited Noises.* The following are declared to be public nuisances affecting public health, safety, peace, or welfare:

- A. Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value in such a manner as to be plainly audible at the boundary of the real property, building, structure, or residence from which the noise originates, or at a distance of 50 feet from the source of the noise (this general prohibition is not limited by any specific restrictions provided in this chapter);
- B. All obnoxious noises, motor vehicle or otherwise, in violation of Minnesota Rules, Chapter 7030, as amended, which rules are incorporated into this section 700.04 by reference;
- C. The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;

- D. The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motorboat, motor vehicle, motorcycle, all-terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;
- E. Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and
- F. The use or operation, or permitting the use or operation, of any audio device in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.

Subd. 2. *Hourly Restriction of Certain Operations.*

- A. *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.
- B. *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
- C. *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
- D. *Radios, music devices, paging systems, and the like.* The operation of any audio device between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.

Subd. 3. *Exceptions.*

- A. *Emergency work.* Operations and acts performed exclusively to preserve the safety, welfare, or public health of the citizens of the city or for emergency work necessary to restore a public service or to eliminate a public hazard are exempt from the restrictions under this section 700.04. Any person intending to perform such emergency work

shall inform the city when the work is initiated or, if the need to perform the work arises during non-business hours of the city offices, then upon resumption of business hours of the city. Each person performing, or responsible for, such emergency work shall take all reasonable actions to minimize the amount of noise produced.

- B. *Public improvement work.* Street and utility construction, reconstruction, replacement, maintenance, repair, street sweeping, and snowplowing, conducted by or at the request of the city, are exempt from the restrictions under this section 700.04.
- C. *Fairgrounds.* Activities occurring within the F-1 zoning district are exempt from the restrictions under this section 700.04.
- D. *Marching bands.* Marching bands are exempt from the restrictions under this section 700.04.

Subd. 4. *Temporary noise permits.*

- A. *Permit.* A temporary noise exceeding the requirements of this chapter 700 will be allowed provided a permit is obtained from the city in advance of the noise occurring. A person making application for a permit shall include the reason for requesting the temporary noise permit, a description of the property from which the noise will originate (if applicable), the nature of the event occurring, the time period for which the temporary noise permit is requested, and the operation or procedure to be employed during the period of the temporary noise permit.
- B. *Fee required.* The fee for a temporary noise permit shall be set from time to time by the city council and is set forth in chapter 1100 of the Code. Such fees must be submitted to the city before a permit will be issued.
- C. *Requirements for granting a temporary noise permit.*
 - 1. *Permits for 24 hours and less.* When a temporary noise permit is issued for an event 24 hours or less in duration and the noise will originate from a specific property, the applicant must notify all property owners within 350 feet of the boundaries of the property for which the permit is issued. The notification must be in advance of the event and provide information on the date, time and type of event for which the permit was issued.
 - 2. *Permits for over 24 hours.* When a temporary noise permit is requested for an event more than 24 hours in duration and the noise will originate from a specific property, the applicant must submit, with the application, a set of address labels for all property owners within 350 feet of the boundaries of the property for which the permit is issued. The names and addresses must be officially prepared by the county auditor's office

or other source approved by the city. Applications with address labels must be received by the city 14 days prior to the event to be considered for a permit. The city shall use the labels to mail notification of the requested event to the neighboring property owners. The city will wait seven (7) days after the day the notifications are mailed before the permit is considered for approval so that those notified can provide comments regarding the proposed permit.

3. *Mobile noise sources.* When a temporary noise permit application is for a mobile source of noise, the applicant shall provide information on the type of equipment, dates and times of proposed operation, and locations in which the equipment or noise will be heard.
- D. *Duration.* Any temporary noise permit granted by the city shall not exceed 90 days.
- E. *Criteria for issuance of permit.* A temporary noise permit may be granted upon a finding that:
1. The noise will be of a temporary duration and the source of the noise cannot be operated or performed in a manner that will comply with the provisions of this chapter;
 2. The costs of abatement, control or alternative activity or time sequence are unreasonably high in relation to the benefits achieved;
 3. The measures necessary to abate or avoid potential noise conflict with other important values, including, but not limited to, aesthetic quality, ecological conditions or safety; or
 4. No other reasonable alternative is available to the applicant.
- F. *Conditions.* In granting a temporary noise permit, the city shall prescribe any conditions, requirements, or restrictions reasonably necessary to minimize adverse effects upon the community or surrounding neighborhood.
- G. *Appeals.* Any person affected by a decision to grant or deny a temporary noise permit may appeal the decision to the city council. A notice of appeal must be filed with the city clerk 10 days after the permit is issued or denied to be valid. If the city clerk timely receives notice of appeal, the appellant shall be granted a hearing with the city council upon at least 10 days written notice to the appellant and the applicant or holder of the temporary noise permit (if not the applicant). At its option, the city may hold the hearing as a public hearing after publication of notice of the hearing in a newspaper of general circulation in the city at least once not less than 10 days nor more than 30 days prior to the date of the hearing.

Subd. 5. *Noise Impact Statements.* The city council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the city council. The city council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.

Sec. 700.05 Nuisance parking and storage.

Subd. 1. *Declaration of Nuisance.* The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: 1) obstructs views on streets and private property, 2) creates cluttered and otherwise unsightly areas, 3) prevents the full use of residential streets for residential parking, 4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, 5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and 6) otherwise adversely affects property values and neighborhood patterns.

Subd. 2. *Unlawful Parking and Storage.*

- A. A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, playhouses, or other similar non-permanent structures outside continuously for longer than 24 hours in the front yard area of residential property unless it is more than 100 feet back from the front property line.
- B. A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
- C. A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
 - 1. No more than four (4) vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the residential property.
 - 2. Vehicles that are parked or stored outside in the front yard areas must be on a paved or graveled parking surface or driveway area.

3. Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that residential property. Students who are away from school for periods of time but still claim the residential property as their legal residence will be considered residents on the residential property.

Sec. 700.06 Inoperable motor vehicles.

Subd. 1. *Declaration of Nuisance.* Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.

Subd. 2. *Inoperable Motor Vehicles.* It shall be unlawful to keep, park, store, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minnesota Statutes §168B.011, subd. 3, as it may be amended from time to time.

Subd. 3. *Screening.* This section does not apply to a motor vehicle enclosed in a building or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the city.

Sec. 700.07 Enforcement and penalties.

Subd. 1. *Duties of City Officials.* City officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

Subd. 2. *Abatement Procedure.*

- A. *Procedure.* Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record and occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with

within the time specified, the official shall report that fact forthwith to the city council. Thereafter, the city council may, after notice to the owner and occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the city council, the city may seek injunctive relief by serving a copy of the city council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

- B. *Notice.* Written notice of the violation; notice of the time, date, place, and subject of any hearing before the city council; notice of the city council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the premises.
- C. *Emergency Procedure; Summary Enforcement.* In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions A and B of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the city council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision A of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the city council may order summary enforcement and abate the nuisance.
- D. *Immediate Abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.
- E. *Unlawful Parties or Gatherings.* When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section 700.03, subd. 5, D, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of

such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

- F. *Judicial Remedy.* Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

Subd. 3. *Recovery of Cost.*

- A. *Personal liability.* The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs and attorneys' fees. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.
- B. *Assessment.* After notice and hearing as provided in Minnesota Statutes §429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes §429.101 against each separate parcel or lot to which the charges are attributable. The city council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding 10, as the city council may determine in each case.

Subd. 4. *Penalty.* Any person convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be punished in accordance with the provisions of chapter 102 of the Code.

CHAPTER 1100 AMENDMENT

Given the amendments made to Chapter 700, the "Related Code" reference for the "Temporary Noise" fee in Chapter 1100 of the Code is updated to read "700.04."

CODE SECTIONS REPEALED

The following sections of Chapter 710, *Protection of Public Peace and Safety*, are repealed in their entirety:

Sec. 710.20. - *Public nuisances affecting peace and safety*; and

Sec. 710.30, Subd. 2. *Storing, parking or leaving abandoned, wrecked, dismantled or inoperative motor vehicles declared a nuisance—Exceptions.*

Chapter 720, *Other public protection*, is repealed in its entirety.

Chapter 740, *Noise*, is repealed in its entirety.

EFFECTIVE DATE

This ordinance is effective upon publication.

Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

CITY OF WACONIA
RESOLUTION NO. 2023-234

RESOLUTION APPROVING SUMMARY PUBLICATION OF ORDINANCE NO. 767

WHEREAS, the City Council of the City of Waconia, Minnesota (the “City”) adopted Ordinance No. 767 on November 6, 2023 (the “Ordinance”); and

WHEREAS, pursuant to Minnesota Statutes §412.191, the City may publish the title and a summary of an Ordinance instead of its full text if the summary informs the public of the intent and effect of the Ordinance and the summary is approved by a four-fifths vote of the City Council; and

WHEREAS, the City Council finds: i) the summary set forth below informs the public of the intent and effect of the Ordinance; and ii) the title and summary of the Ordinance should be published instead of the full text of the Ordinance;

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

1. The above recitals and findings are incorporated as resolutions of the City Council.
2. The following official summary of Ordinance No. 767 is hereby approved:

ORDINANCE NO. 767, AN ORDINANCE AMENDING CHAPTER 700 REGARDING PUBLIC NUISANCES AND REPEALING SUPERCEDED CODE PROVISIONS, amends Chapter 700 of the Waconia City Code (Code) in its entirety and repeals other provisions of the Code that are now inconsistent with Chapter 700 or redundant.

Here is a summary of the Code sections now found in Chapter 700:

Section 700.01, *findings, purpose, and authority*, sets forth the City Council’s findings supporting the new Code provisions, summarizes the purpose of Chapter 700, and lists Minnesota Statutory authority for regulating public nuisances and noise.

Sec. 700.02, *definitions*, contains definitions for certain terms used in Chapter 700.

Sec. 700.03, *public nuisances prohibited*, provides that a person must not act, or fail to act, in a manner that is or causes a public nuisance and lists prohibited conduct including general public nuisances, nuisances affecting health, and nuisances affecting morals and decency.

Sec. 700.04, *noise*, lists prohibited noises and restricts certain types of noises to certain hours. This section also permits the city council to require noise

impact statements in connection with zoning classification changes and permit/license applications.

Sec. 700.05, *nuisance parking and storage*, regulates the parking and storage of vehicles, materials, supplies, and equipment on residentially zoned property and declares certain types of parking and storage unlawful. This section also regulates the keeping, storing, parking, and abandonment of inoperable motor vehicles.

Sec. 700.07, *enforcement and penalties*, gives peace officers and other city officials authority to enforce Chapter 700. These powers include, but are not limited to, the power to inspect private property and the power to undertake appropriate action to abate nuisances. This section also authorizes the City to collect enforcement costs from property owners and violators. In addition to the above, any person convicted of violating Chapter 700 is guilty of a misdemeanor.

Given the amendments made to Chapter 700, the “Related Code” reference for the “Temporary Noise” fee in Chapter 1100 of the Code is updated to read “700.04.”

Here is a summary of the Code chapters and sections that have been repealed:

Sec. 710.20. - *Public nuisances affecting peace and safety*;

Sec. 710.30, Subd. 2. *Storing, parking or leaving abandoned, wrecked, dismantled or inoperative motor vehicles declared a nuisance—Exceptions*;

Chapter 720, *Other public protection*; and

Chapter 740, *Noise*.

The full text of the Ordinance is available for public inspection during regular office hours at the office of the City Clerk, City Hall, 201 South Vine Street, Waconia, and will also be posted at City Hall. Further, any person may request the City to send the full text of the Ordinance via standard or electronic mail by calling City Hall at (952) 442-2184.

3. The City Administrator shall submit the Ordinance title and summary to a qualified newspaper for publication using bold type no smaller than eight points in size.

Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST:

Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Contract for Winter Towing & Impound Services					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):		Resolution 2023-196 - Authorize Staff to Obtain Quotes for Towing & Impound Services for City - Dated: September 5, 2023					
Item Type (X only one):	Consent	☒ X	Regular Session	☐	Discussion Session	☐	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-235, Approving Contract with R&V Service & Towing LLC for Winter Towing & Impound Services							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
At the direction of the City Council, City staff created a request for proposal for winter towing and impound services for November 1, 2023 thru April 1, 2024. The request for proposal contained the parameters and service needs required by the City. The request included a worksheet to be completed and returned to City staff by October 11, 2023. The request and application forms were mailed directly to four towing service locations within a 15 mile radius of the City of Waconia. The request and application were also posted to the City's website for review by any party that provides towing and impound services. One proposal was received by the deadline from R&V Service & Towing LLC located in Mayer, MN. R&V Service provided a complete proposal form and all the required information. They have worked with the City of Watertown and City of Mayer with similar towing needs. The total minimum cost for those that need to be towed is \$175. In the City's previous winter season, between towing charges, storage fees, and staff time costs to administer the program, the minimum towing fee was \$368. The contract with R&V Service will require that vehicles be towed and impounded at R&V's location in Mayer. City staff worked with Melchert, Hubert, Sjodin to prepare the attached towing agreement to be signed by both parties based on the parameters of the request for proposal. Staff is requesting approval to move forward with this contract and put this needed service into place to perform the City's winter maintenance operations. City staff and the City Council review the winter maintenance and towing and impound services annually. Staff expects to review this contract again in the summer of 2024 to prepare for the 2024-2025 winter season.							
<u>Attachments:</u>							
1. 2023-235 Resolution Approving Towing Agreement with exhibits Draft 11-01-2023 .docx 2. Towing Agreement with exhibits (Draft 11.01.23).docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
General Fund - Streets (101)							
Budget Information:				Planning Commission			
☐ Budgeted ☒ Non Budgeted				Parks and Recreation Board			
				Safari Island Advisory Board			

_____Amendment Required	Other
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CITY OF WACONIA
RESOLUTION NO. 2023-235

RESOLUTION APPROVING TOWING & IMPOUND SERVICE AGREEMENT

WHEREAS, the City of Waconia (the “City”) the City released a Request for Proposals for towing, impounding, and storage services which Request for Proposals is attached hereto as Exhibit A; and

WHEREAS, R & V Service and Towing LLC, a Minnesota limited liability company (“R&V”) was the only contractor to respond to the Request for Proposals, which response is attached hereto as Exhibit B; and

WHEREAS, City staff have reviewed R&V’s response and believe that the proposal is adequate to provide the services requested in the City’s Request for Proposals; and

WHEREAS, the City Council finds that R&V’s response to the Request for Proposals substantially responsive to the request for proposals, that it fulfills all essential criteria to meet the City’s needs outlined in the Request for Proposals, and that R&V is the most responsive submission to the City’s Request for Proposals; and

WHEREAS, the City Council finds the material terms of the towing service agreement, as set forth in the attached Exhibit C, acceptable; and

WHEREAS, the City Council further finds it is in the best interests of the City and its residents to accept R&V’s response to the City’s Request for Proposal.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WACONIA, MINNESOTA:

1. The above recitals and findings are incorporated as resolutions of the City Council.
2. The City’s towing services agreement is awarded to R & V Service and Towing LLC of Mayer, Minnesota, subject to the terms and contingencies contained in the Towing Agreement.
3. The form of the Towing Agreement attached as Exhibit C is approved, provided the City Administrator and the City Attorney are each authorized to make any revisions to the Towing Agreement on the City’s behalf that they deem necessary or desirable without seeking further approval of the City Council.
4. The Mayor and City Clerk are authorized to execute and deliver, on behalf of the City, the Towing Agreement and any other documents they deem necessary or desirable to facilitate the transactions described in this resolution. The execution of any document or instrument by such officers of the City shall be conclusive evidence of the approval of such document or instrument in accordance with the terms of this resolution.

5. The City Administrator is authorized to expend City funds to pay any costs allocated to the City under the Towing Agreement or incurred by the City to meet its obligations under the Towing Agreement.

Passed and adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

EXHIBIT A

**CITY OF WACONIA,
MINNESOTA
REQUEST FOR PROPOSALS
FOR TOWING,
IMPOUNDING, AND
STORAGE OF MOTOR
VEHICLES .**

Introduction

The City of Waconia, Minnesota, is seeking proposals from qualified and experienced firms to provide 24-hour towing, impounding, and storage of motor vehicles on an as needed and directed basis for the purpose of winter roadway plowing and snow storage. Services are requested for November 1, 2023 thru April 1, 2024.

Proposals:

it is the intent of the City of Waconia to award a contract to the Contractor who submits the proposal deemed to best meet the needs and requirements of the City.

Proposals must be received by 12:00 p.m. (noon) Wednesday, October 11, 2023.

Submit proposals to: **Towing Proposal
City of Waconia
201 Vine Street South
Waconia, MN 55387**

The City of Waconia retains the right to waive any informality or irregularity in any proposal received, and to accept the proposal, which in its judgment, is in its own best interest. The award of the contract will be based upon the evaluation criteria. The City of Waconia reserves the right to reject any and all proposals.

RFP Questions and Contact:

Questions relative to the RFP should be directed to: **Finance Director, Nicole Meyer
City Hall
201 Vine Street South
Waconia, MN 55387
(952) 442-3108
nmeyer@waconia.org**

Terms and Conditions:

The following terms and conditions detail the requirements to provide 24-hour motor vehicle towing, impounding and storage services for the City of Waconia on an as needed and directed basis. Such direction is to be by the City Administrator, City of Waconia Law Enforcement (as contracted with Carver County Sheriff's Department), City Public Service Staff or their authorized and legal representatives.

Equipment:

Contractor shall provide sufficient equipment for the operator of the towing service to be able to tow vehicles including but not limited to:

- A. Equipment capable of towing automobiles, light trucks, vans, utility vehicles, 4x4's, all-

terrain vehicles, commercial vehicles, heavy trucks, and any other vehicle, motorized or not and further equipped to control movement of the towed vehicle; and

- B. Trucks and equipment of sufficient quantity that allows the Contractor to meet the required response time regardless of season, time, date, or event; and

A listing of all equipment to be utilized shall be submitted with the proposal. Such listing shall show the make and model of all equipment available for use under this contract, along with size and all other pertinent information, such as specialized equipment not necessarily herein specified, but which may be a factor in performing effectively and efficiently.

All equipment to be used by the contractor under this contract shall be maintained in good repair and condition. The City reserves the right to inspect the equipment from time to time for the purpose of determining that equipment condition is in conformance with the terms and conditions of the specifications and the contract.

Personnel:

The Contractor performing under this contract shall assume all and full responsibility for the conduct of his/her employees. The Contractor guarantees that all of the employees performing under this contract will be adequately trained in their profession, will respond promptly to all calls, be clean and neat in appearance, use decent language, free of profanity, and treat the public courteously at all times.

Request for service from City of Waconia Staff must be given first priority by all dispatchers.

Drivers shall possess and carry a valid Minnesota driver's license commensurate with the truck they are operating and be proficient in the operation of such equipment. All drivers shall operate the Contractor's equipment in a safe and prudent manner, complying with all traffic laws.

Failing to meet any or all of the requirements of this section may result in cause for terminating the contract at any time as per the conditions specified for contract termination.

Licensing:

Contractor shall obtain and maintain in effect throughout this contract, all licenses, permits and certificates as required by the State of Minnesota, Carver County, and the City of Waconia for the operation of the service required to be performed by the Contractor under this contract. The Contractor shall operate and maintain its parking and storage facility in compliance with the terms of this contract and all State and City applicable laws, ordinances, rules, and regulations that are presently in effect or which may hereafter be adopted.

Storage Facilities:

To be considered for selection, all storage and parking lot facilities and all equipment used by the contractor under this contract must be located within a 20-mile radius of the city limits of the City of Waconia. The successful Contractor must demonstrate that their storage and parking lot facilities meet or are capable of meeting all the applicable State and local building code standards and municipal license and zoning requirements, including those relating to outdoor storage, screening, and landscaping of the City in which the facility is located. A site inspection may be part of the review process.

The Contractor will be solely responsible for loss or damage to any vehicle, including all equipment and contents, from the time direction is given by the authorized City representative turning the vehicle over to the Contractor or his Agent, until such time as the vehicle is legally released to the registered or actual owner or legal agent thereof.

Insurance:

Contractor shall obtain and maintain in effect throughout this contract liability, property damage and fire insurance which shall contain coverage in an amount not less than \$100,000 to any one person and not less than \$300,000 total in any one incident and not less than \$10,000 fire and property damage coverage.

Availability:

Contractor shall provide towing services 24 hours per day, November 1 through April 1. Contractor shall provide a telephone answering service 24 hours a day, seven days per week, for the purpose of receiving requests for service pursuant to this contract.

The Contractor must provide hours of operation for release of impounded vehicles as part of the proposal. Hours of operation must be posted in a prominent place on the front door or front gate of the facility.

Access to the storage facility shall be available to Public Services Staff or other authorized and legal representative, at all times and without costs. The City shall have the right to inspect the Contractor's equipment, storage facility and pertinent records with notice, during normal business hours.

Response Time:

Upon receipt of request for towing service by the City, Contractor shall dispatch the necessary trucks and equipment to arrive at the site so designated within the specified time, which shall not be more than thirty (30) minutes, after receipt of request. Should the Contractor fail to appear at a designated tow point within the specified time after receiving a call for a tow, the City reserves the right to call another towing service to perform the work.

If at any time, it becomes necessary for the City to request the services of another towing service for the reasons detailed above, the City retains the right to hold the Contractor retained under this contract responsible for any additional charges over and above the fee schedule recorded in this proposal. Such charges shall be assessed only if the response time is due to negligence on the part of the Contractor. Such negligence might include equipment failure.

The City reserves the right to call the closest available towing company in the event of an emergency as determined by the City, regardless of any contractual relationship with the City. At the discretion of the City, response time may be altered in the event of adverse road, traffic, or weather conditions.

Contractor Services:

The Contractor agrees to provide all services required by the City of Waconia for towing, impounding, transport, and storage of vehicles. These services shall be provided in accordance with the terms of the contract.

Vehicles will not be driven at any time during the towing procedure, except as incidental to the impound process. In the event that the vehicle is without tires or has flat tires, the Contractor is to tow the vehicle without damaging the wheels and not tow any vehicle on its rims.

Vehicle Release:

All vehicles towed or impounded are to be released in accordance with procedures adopted by the Contractor. Vehicles shall not be released without proper proof of ownership. If the vehicle is to be driven from the impound lot, proof of current insurance covering the vehicle and proof of a valid driver's license by the prospective driver shall be required.

At the time of the return of the vehicle, the Contractor shall give a receipt in writing which shall state the date of such vehicle release together with the charges enumerated thereon and the purpose for which the charges were made. The receipt shall be made in one original and one copy, all of which shall be signed by the Contractor and the person to whom the vehicle release is made. The Contractor shall retain the original of the receipt and shall deliver one copy to the owner of the vehicle. The City may request a copy of the original receipt at any time.

Records:

The Contractor will be responsible for maintaining proper records of all vehicles towed, stored, released, still held, junked, and destroyed. The records are to be available at all times for inspection by authorized City officials. The contractor must have the ability to receive and send documents electronically in addition to paper copies.

Towing Charges:

The performing Contractor shall be entitled to a charge for his/her towing and storage services pursuant to the fees submitted in the accompanying proposal. The Contractor shall agree that neither the City nor any Department thereof is responsible for any charges as a result of towing and/or storage and that the Contractor assumes all liability for any and all unpaid charges.

The Contractor agrees to accept as method of payment, cash, and one other method of payment such as check or credit card.

Evaluation Criteria:

The City of Waconia will evaluate all proposals received for the purposes of selecting a Contractor. The following factors, listed in relative order of importance, will be considered in making the selection:

- A. SERVICE: Response Time, Equipment, Location, Availability
- B. SECURITY/FACILITIES: Inside/Outside Storage Facility Security, Location, Procedures
- C. QUALIFICATIONS/EXPERIENCE: Staff Qualifications, Business References
- D. COSTS: Price List, Costs to Customers

The Contractor shall clearly identify any proposed deviations from the Terms and Conditions in their response to this RFP. Each exception must be clearly defined and referenced to the proper paragraph. If no exceptions are noted in the Contractor's proposal, the City will assume complete conformance and the successful Contractor will be required to perform accordingly. Alternate written proposals submitted may be considered; however, the City will make final determination as to suitability and compliance.

Proposals submitted not meeting all requirements may be rejected.

EXHIBIT B

Submittal Requirements Worksheet

Please return this worksheet by Wednesday, October 11, 2023 at 12:00 p.m. (noon) to:

City of Waconia
Attn: Towing Proposal
201 Vine Street South
Waconia, MN 55387

A. SERVICE

- List the hours your facility is open to the public for release of impounded vehicles.
DAILY 8AM-5PM
- List the location and size of main storage facility and any other storage sites indicating which sites would be used to service this contract.
R&V SERVICE - 217 7TH ST, MAYER
CURRENTLY HAVE 55' X 58' FENCED AREA. WE WILL HAVE A 50' X 90' ADDITIONALLY BEGINNING OF NOVEMBER
- State guaranteed response time.
WITHIN 30 MINUTES
We are well known for our fast response times
- Include a list of the tow trucks and equipment to be utilized under this contract. If Contractor does not presently own or lease enough tow trucks to meet the minimum number required, state what arrangements will be made.
1- WRECKER WITH DOLLIES LIGHT DUTY
2- 21' FLATBEDS - UP TO 10,000 LBS WITH WHEEL LIFTS
1- 28' FLATBED WITH WHEEL LIFT - UP TO 20,000 LBS
- State the maximum weight vehicle you can tow.
20,000 LB VEHICLE UP TO 9.5' TALL
- Describe equipment to be used in dispatching wreckers.
CELL PHONES & TOWBOOK DISPATCH APP.
- State your general release procedure. Include any other situation in which your procedure would vary from the general procedure and what your procedure would be in that situation.
Registered owner's must be with to release vehicle or have owner's authorization. We have them sign a release form as well. Payment is due during release.

- We also take pictures of prior damages before hooking up to avoid false accusations.
- State your procedure for handling and resolving complaints from the public regarding the services you would provide under this agreement.
We try to explain the situation or reasoning of why their vehicle was towed. If it's because of our services we try to understand their concerns and correct issues if needed.
 - Explain fully the methods of payment you will accept from vehicle owners. State the procedures for vehicle owners to pay your charges.
Owner's will be able to pay with Card or Cash.
We have card processing in our office as well as with our drivers.
 - Explain how you will inform the public of your charges and of the procedures described in questions above. Explain how you will inform the City and the public of any procedural change.
We will inform the city of any changes, but don't foresee any changes to be done.

B. SECURITY/FACILITIES

- Provide number of exterior & interior storage parking spaces.
We have 35 parking spaces in our fenced in areas. We also have plenty of out of fence exterior spaces.
- Describe the security features of the storage facility - fencing, lighting, cameras, access, etc.
We have a 3-Bay Repair Shop that could hold 4 cars if necessary. We have a 55'x58' Fenced area and will have a 50'x90' Fenced area in November. Both Fences have barb wire at the top, have lighting and have cameras.
- Explain the policies and procedure pertaining to access of vehicles you would follow under this contract. Include any other situation in which your procedure would vary from the general procedure.
We do not access the vehicles unless necessary to try to steer them onto our bed or to get them into neutral, if possible.

C. QUALIFICATIONS/EXPERIENCE

- Provide company's legal name, address, and principal owners.
R&V Service & Towing LLC
217 7th St. NE, Mayer, MN 55360
Zachary & Lauren Stifter
Shop/Office - 952-657-2119
Towing - 952-451-7715
- List previous and current contracts and agencies that are considered identical or similar to the scope of work described in this contract.
We work with Carver County Sheriff's Office & State Patrol for accidents & impounds.
We have worked with the City of Watertown for many years & are currently working with the City of Mayer.
We work with other local businesses for their towing needs.
- Bob's Repair - Waco Repair, Summit Auto Care to name a few.

- List subcontractors, if any, to be used in performing this service.

We feel we shouldn't need to subcontract this job out.

- Evidence of Insurability at required levels.

*Progressive is our insurance with on-hook coverage
along with a \$1,000,000 Policy*

- Include a list of references that can attest to Contractor's ethical, quality and service standards. The list shall include the complete name, address, and telephone number of each reference, with a description of his or her relationship to your firm.

*Corporal Robert Cripps - Carver County Sheriff's Office 320-583-
5917
Deputy Larry Lessard - Carver County Sheriff's Office 952-457-6474*

D. PRICE

- Complete enclosed Price Sheet

TOWING, IMPOUNDING AND STORAGE PRICE SHEET

R&V Service & Towing LLC
Name of Company

Towing

Tow of automobiles and other vehicles under 10,000 pounds GVW	\$ <u>140</u>
Tow of vehicles between 10,001 and ^{20,000} 26,000 pounds GVW	\$ <u>155</u>
Tow of vehicles over 26,000 pounds GVW	\$ <u>N/A</u>
Additional charge, if any, for use of dolly	\$ <u>25</u>
Additional charge, if any, for use of low-bed truck or trailer	\$ <u>N/A</u>
Additional charge, if any, for use of flat-bed truck	\$ <u>None</u>
Additional charge, if any, for use of winch with tow	\$ <u>25 min. \$125/hr.</u>
Fuel Surcharge, if any	\$ <u>None</u>
Administrative Fees, if any	\$ <u>None</u>

Storage Charges

First _____ day period:	Inside storage	\$ <u>65</u>
When it's in our lot, minimum of one day, days add/start at M.dnight.	Outside storage	\$ <u>35</u>
	Large vehicle storage	\$ <u>N/A</u>
	Each additional day:	Inside storage
	Outside storage	\$ <u>35</u>
	Large vehicle storage	\$ <u>N/A</u>

EXHIBIT C
TOWING AGREEMENT

This Towing Agreement (the "Agreement") is dated November ____, 2023, and is between the City of Waconia, Minnesota (the "City"), located at 201 Vine Street South, in Waconia, Minnesota; and R & V Service & Towing LLC, ("R&V"), a Minnesota limited liability company, located at 217 7th St. NE, in Mayer, Minnesota. The City and R&V are each a "Party" and are, collectively, the "Parties."

RECITALS

WHEREAS, the City's request for proposals for towing, impounding, and storage of motor vehicles services is attached as Exhibit A (the "City's RFP"); and

WHEREAS, in response to the City's RFP, R&V submitted the proposal attached as Exhibit B ("R&V's Response to RFP"); and

WHEREAS, pursuant to the criteria set forth in the City's RFP, the City has determined R&V will best serve its towing, impounding and vehicle storage needs and is best suited to provide those services to the City pursuant to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the following mutual promises and covenants contained in this Agreement, the Parties agree as follows:

1. Purpose and Incorporation of Recitals. The purpose of this agreement is to set forth the terms and conditions under which R&V will provide vehicle towing, impounding, and vehicle storage services to the City. The above Recitals and exhibits attached to this agreement are incorporated by reference as terms of this Agreement.
2. Scope of Services. R&V shall provide the towing, impounding and storage of motor vehicle services specified in the City's RFP and set forth in R&V 's Response to RFP. R&V shall provide such services 24 hours per day, seven (7) days a week, on an as needed and directed basis. Such direction may be provided by the City Administrator, the City Fire Chief, City public works staff, the Carver County Sheriff's Department on behalf of the City, or their authorized representatives. R&V and its agents shall give first priority to the City's requests for services under this Agreement.

The City reserves the right to engage the services of another towing contractor if R&V fails to appear at the site of a call for a tow from the City within 30 minutes, in case of an emergency, or for a vehicle of a kind or weight which R&V designated in R&V's Response to RFP that it does not have the capability to tow. R&V shall be responsible for the additional cost to the City for tows performed by another towing contractor provided, however, that R&V shall not be responsible for the additional costs if the vehicle to be towed is of a kind or weight which R&V designated in R&V's Response to RFP that it does not have the capability to tow.

R&V shall not enter into any subcontracts for services provided by R&V under this Agreement without the express written consent of the City.

R&V agrees to comply with all federal, state, and local laws and ordinances applicable to the services to be performed under this Agreement, including all safety standards. R&V shall be solely and completely responsible for those conditions within its control such as the safety of its premises, and the safety of all persons and property during the performance of the services including by implementation and enforcements of safety protocols both at R&V's premises and at the site of any tow. R&V represents and warrants that it has the requisite training, skills, and experience necessary to provide the services and is appropriately licensed by all applicable agencies and governmental entities and will perform the services with reasonable care and skill.

R&V shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a vehicle towing contractor under similar circumstances.

R&V shall retain control over its employees, agents, servants, and subcontractors, as well as control over invitees unto its premises. R&V shall not be deemed an agent of the City.

R&V shall only perform the services contemplated by this Agreement unless the City provides express written permission for additional services. The City will not compensate R&V for additional services provided without the City's written consent.

3. Term and Termination. This Agreement shall be effective on the date of this Agreement and shall continue, unless terminated sooner in accordance with this Agreement, until April 1, 2024, at which point the Agreement will expire (the "Term"). The City may terminate this Agreement for convenience at any time. Termination shall be effective upon 30 days' written notice to R&V. R&V may terminate this Agreement if the City is in breach of any material obligation contained in this Agreement, which is not remedied by the City within thirty (30) days of written notice. The Parties may voluntarily terminate this Agreement at any time by mutual agreement. The term of this Agreement may be extended upon the written mutual consent of the Parties for such additional period as they deem appropriate upon the same terms and conditions as herein stated. In the event of early termination, the City shall only be responsible to pay for the services satisfactorily performed by R&V to the effective date of termination, as described in the final invoice to the City.

4. Compensation. In exchange for the services provided under this Agreement, R&V shall be entitled to charge the owners of towed vehicle the fees stated in R&V 's Response to RFP, which may not be changed, modified, altered, or amended during the Term of this Agreement. R&V agrees that the City and its departments, agents and employees will not be responsible or liable for any fees for such services performed pursuant to this Agreement. R&V agrees to assume all responsibility for any unpaid fees and charges.

5. Premises and Facilities. R&V shall, at its sole cost and expense, maintain and use its storage and parking facilities, which are located in Mayer, Minnesota (which is within 20 miles of the City's municipal

borders), or such other premises that are suitable according to the terms of R&V's Response to RFP to provide the services required by this Agreement. R&V shall notify the City not less than 60 days prior to changing the location of the facilities used to provide the services under this Agreement. The City and its agents shall have access to R&V's premises at all times without cost. R&V shall post its hours of operation for release of impounded vehicles prominently on the front door or front gate of its premises.

6. Equipment and Licenses. R&V shall own and maintain, at its sole cost and expense, the equipment required by the City's RFP during the Term of this Agreement; R&V agrees to maintain all equipment in good repair and working order. Such maintenance shall include, but not be limited to, all required Minnesota Department of Transportation inspections, annual vehicle inspections by an ASE Certified Automotive Technician, and regularly scheduled vehicle maintenance. The equipment required by the City's RFP and any additional equipment required by the City under this paragraph to provide services under this Agreement shall be garaged at R&V's premises.

R&V shall, at its expense, maintain all licenses, permits, and certificates required for the performance of the services under this Agreement including those required to meet all requirements of the State of Minnesota, Carver County, and the City of Waconia. R&V shall ensure its employees and agents are individually licensed, permitted, or certified as necessary to perform their assigned duties.

7. Personnel and Taxes. R&V warrants and agrees that it has or will employ and/or contract with a sufficient number of trained personnel to provide prompt services as ordered and directed by the City during the Term of this Agreement. R&V's employees and agents shall meet the standards described in the City's OFP's "Personnel" section.

R&V shall further indemnify the City against all liability and loss in connection with, and shall assume fully responsibility and liability for, payment of all federal, state, and local taxes or contributions imposed or required under employment insurance, social security and income tax laws, with respect to any employee of R&V or anyone directly or indirectly employed by R&V.

8. Independent R&V Relationship. It is expressly understood that R&V is an "independent contractor" and not an employee of the City. R&V shall have control over the manner in which the services are performed under this Agreement. R&V shall supply, at its own expense, all materials, supplies, equipment, and tools required to accomplish the services contemplated by this Agreement. Neither R&V nor its employees, agents, nor contractors shall be entitled to any benefits from the City, including, without limitation, insurance benefits, sick and vacation leave, workers' compensation benefits, unemployment compensation, disability, severance pay, or retirement benefits. Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or agency relationship between the Parties.

9. Monthly Reports. Within 10 days after the end of each calendar month, R&V will submit a report to the City setting forth all vehicles that are currently being stored at the City's direction and the disposition of all such vehicles.

10. Right of Inspection. R&V agrees that the City and any of its duly authorized representatives, at any time during normal business hours and as often as reasonably necessary, shall have the right to inspect, examine, audit, verify, excerpt, and transcribe any books, records, equipment, and facilities which are pertinent to or involve the services to be performed under this Agreement.

11. Insurance Requirements. R&V, at its expense, shall procure and maintain in force for the duration of this Agreement the following minimum insurance coverages:

- A. General Liability. R&V shall maintain Commercial General Liability Insurance in a minimum amount of \$100,000 per occurrence; \$300,000 annual aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. The City, including its elected and appointed officials, employees, and agents, shall be endorsed as additional insured.
- B. Fire and Property Damage. R&V shall carry a policy of insurance that covers at least \$10,000 of fire damage and other property damage.
- C. Automobile Liability. R&V shall maintain Business Automobile Liability Insurance, including owned, hired, and non-owned automobiles, and on-hook coverage, with a minimum combined single liability limit of \$1,000,000 per occurrence.
- D. Garagekeepers Insurance. R&V shall maintain Garagekeepers Legal Liability Insurance in a minimum amount of \$250,000.
- E. Hazardous Load Insurance. R&V shall maintain Hazardous Load Insurance if required by applicable federal and state law.
- F. Workers' Compensation. R&V shall maintain Workers' Compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota. R&V shall also carry Employers' Liability Coverage with minimum limits as follows:
 - \$500,000 – Bodily Injury by Disease per employee
 - \$500,000 – Bodily Injury by Disease aggregate
 - \$500,000 – Bodily Injury by Accident
- G. Additional Insurance Conditions.
 - 1. R&V shall, prior to commencing the services and then upon request, deliver to the City, a Certificate of Insurance as evidence that the above coverages are in full force and effect.
 - 2. The insurance requirements may be met through any combination of primary and umbrella/excess insurance. The City must be named as an additional insured on any umbrella/excess policy.
 - 3. R&V's policies shall be primary insurance and non-contributory to any other valid and collectible insurance available to the City with respect to any claim arising out of R&V's performance under this Agreement.

4. R&V's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' written notice for non-payment of premium.
12. Indemnification. To the fullest extent permitted by law, R&V agrees to defend, indemnify, and hold harmless the City, and its employees, elected officials, contractors, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of R&V's negligence or R&V's performance or failure to perform its obligations under this Agreement. R&V's indemnification obligation shall also apply to R&V's subcontractor(s), or anyone directly or indirectly employed or hired by R&V, or anyone for whose acts R&V may be liable. R&V agrees this indemnity obligation shall survive the expiration or termination of this Agreement.
13. Dispute Resolution. The City and R&V agree to informally negotiate all disputes related to this Agreement in good faith for a period of 15 days from the date of the notice of dispute prior to proceeding to file a lawsuit regarding the dispute.
14. General Provisions.
 - A. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.
 - B. Compliance. The City and R&V agree to comply with all applicable federal, state, and local laws, ordinances, and regulations in the performance of this Agreement.
 - C. Assignment. R&V may not assign this Agreement or any of its obligations under this Agreement to any other person unless written consent is obtained from the City.
 - D. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both Parties.
 - E. Nondiscrimination. In the hiring of employees to perform work under this Agreement, R&V shall not discriminate against any person by reason of any characteristic or classification protected by state or federal law.
 - F. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in Carver County, Minnesota.
 - G. Records. R&V shall maintain proper records of all vehicles towed, stored, released, held, junked, and destroyed. These records shall be available at all times for inspection by the City's agents and employees. R&V shall maintain the ability to receive and send electronic copies of its records.
 - H. Government Data/Privacy. R&V agrees to abide by the applicable provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, HIPAA requirements and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality. R&V understands that all of the data created, collected, received, stored, used, maintained or disseminated by R&V in performing those functions that the City would perform is subject to the

requirements of Chapter 13, and R&V must comply with those requirements as if it were a government entity. This does not create a duty on the part of R&V to provide the public with access to public data if the public data is available from the City, except as required by the terms of this Agreement.

- I. Audits. Pursuant to Minn. Stat. Section 16C.05, subd. 5, R&V's books, records, documents, and accounting procedures and practices that are relevant to this Agreement, are subject to examination by the City and either the Legislative Auditor or the State Auditor for a minimum of six (6) years from the end of this Agreement.
- J. Waiver. The waiver by either party of any breach or failure to comply with any provision of this Agreement by the other Party shall not constitute a continuing waiver of such provision or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement.
- K. No Wavier. Nothing in this Agreement is intended to and does not in any manner operate as a waiver of the City's immunities or tort limits contained in Minnesota Statutes chapter 466.
- L. Third Party Reliance. This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.
- M. Notices. All notices and other communications pursuant to this Agreement must be in writing and must be given by registered or certified mail, postage prepaid, or delivered by hand at the addresses set forth below:

Notice to City: City of Waconia

Attn: City Administrator

201 Vine Street South

Waconia, MN 55387

Notice to R&V: R & V Service & Towing LLC

217 7th St. NE

Mayer MN 55360

- N. Force Majeure. Except for payment of sums due, neither Party shall be liable to the other or deemed in default under this Agreement, if and to the extent that Party's performance is prevented by reason of force majeure. "Force majeure" includes war, an act of terrorism, a pandemic or epidemic, fire, earthquake, flood, and other circumstances which are beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the Party affected was unable to prevent.
- O. Savings Clause. If any court finds any portion of this Agreement to be contrary to law, invalid, or unenforceable, the remainder of the Agreement will remain in full force and effect.

P. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, and which taken together shall be deemed to be one and the same document.

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be approved on the date above.

City of Waconia, Minnesota

By: _____

Nicole Waldron

Its Mayor

By: _____

Jacqueline Schulze

Its Clerk

R & V Service & Towing LLC

By: _____

Name: _____

Its: _____

TOWING AGREEMENT

This Towing Agreement (the “**Agreement**”) is dated November ____, 2023, and is between the City of Waconia, Minnesota (the “**City**”), located at 201 Vine Street South, in Waconia, Minnesota; and R & V Service & Towing LLC, (“**R&V**”), a Minnesota limited liability company, located at 217 7th St. NE, in Mayer, Minnesota. The City and R&V are each a “**Party**” and are, collectively, the “**Parties**.”

RECITALS

WHEREAS, the City’s request for proposals for towing, impounding, and storage of motor vehicles services is attached as Exhibit A (the “**City’s RFP**”); and

WHEREAS, in response to the City’s RFP, R&V submitted the proposal attached as Exhibit B (“**R&V’s Response to RFP**”); and

WHEREAS, pursuant to the criteria set forth in the City’s RFP, the City has determined R&V will best serve its towing, impounding and vehicle storage needs and is best suited to provide those services to the City pursuant to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the following mutual promises and covenants contained in this Agreement, the Parties agree as follows:

1. Purpose and Incorporation of Recitals. The purpose of this agreement is to set forth the terms and conditions under which R&V will provide vehicle towing, impounding, and vehicle storage services to the City. The above Recitals and exhibits attached to this agreement are incorporated by reference as terms of this Agreement.
2. Scope of Services. R&V shall provide the towing, impounding and storage of motor vehicle services specified in the City's RFP and set forth in R&V 's Response to RFP. R&V shall provide such services 24 hours per day, seven (7) days a week, on an as needed and directed basis. Such direction may be provided by the City Administrator, City public works staff, the Carver County Sheriff's Department on behalf of the City, or their authorized representatives. R&V and its agents shall give first priority to the City's requests for services under this Agreement.

The City reserves the right to engage the services of another towing contractor if R&V fails to appear at the site of a call for a tow from the City within 30 minutes, in case of an emergency, or for a vehicle of a kind or weight which R&V designated in R&V’s Response to RFP that it does not have the capability to tow. R&V shall be responsible for the additional cost to the City for tows performed by another towing contractor provided, however, that R&V shall not be responsible for the additional costs if the vehicle to be towed is of a kind or weight which R&V designated in R&V’s Response to RFP that it does not have the capability to tow.

R&V shall not enter into any subcontracts for services provided by R&V under this Agreement without the express written consent of the City.

R&V agrees to comply with all federal, state, and local laws and ordinances applicable to the services to be performed under this Agreement, including all safety standards. R&V shall be solely and completely responsible for those conditions within its control such as the safety of its premises, and the safety of all persons and property during the performance of the services including by implementation and enforcements of safety protocols both at R&V's premises and at the site of any tow. R&V represents and warrants that it has the requisite training, skills, and experience necessary to provide the services and is appropriately licensed by all applicable agencies and governmental entities and will perform the services with reasonable care and skill.

R&V shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily possessed and exercised by a vehicle towing contractor under similar circumstances.

R&V shall retain control over its employees, agents, servants, and subcontractors, as well as control over invitees unto its premises. R&V shall not be deemed an agent of the City.

R&V shall only perform the services contemplated by this Agreement unless the City provides express written permission for additional services. The City will not compensate R&V for additional services provided without the City's written consent.

3. Term and Termination. This Agreement shall be effective on the date of this Agreement and shall continue, unless terminated sooner in accordance with this Agreement, until April 1, 2024, at which point the Agreement will expire (the "**Term**"). The City may terminate this Agreement for convenience at any time. Termination shall be effective upon 30 days' written notice to R&V. R&V may terminate this Agreement if the City is in breach of any material obligation contained in this Agreement, which is not remedied by the City within thirty (30) days of written notice. The Parties may voluntarily terminate this Agreement at any time by mutual agreement. The term of this Agreement may be extended upon the written mutual consent of the Parties for such additional period as they deem appropriate upon the same terms and conditions as herein stated. In the event of early termination, the City shall only be responsible to pay for the services satisfactorily performed by R&V to the effective date of termination, as described in the final invoice to the City.

4. Compensation. In exchange for the services provided under this Agreement, R&V shall be entitled to charge the owners of towed vehicle the fees stated in R&V 's Response to RFP, which may not be changed, modified, altered, or amended during the Term of this Agreement. R&V agrees that the City and its departments, agents and employees will not be responsible or liable for any fees for such services performed pursuant to this Agreement. R&V agrees to assume all responsibility for any unpaid fees and charges.

5. Premises and Facilities. R&V shall, at its sole cost and expense, maintain and use its storage and parking facilities, which are located in Mayer, Minnesota (which is within 20 miles of

the City's municipal borders), or such other premises that are suitable according to the terms of R&V's Response to RFP to provide the services required by this Agreement. R&V shall notify the City not less than 60 days prior to changing the location of the facilities used to provide the services under this Agreement. The City and its agents shall have access to R&V's premises at all times without cost. R&V shall post its hours of operation for release of impounded vehicles prominently on the front door or front gate of its premises.

6. Equipment and Licenses. R&V shall own and maintain, at its sole cost and expense, the equipment required by the City's RFP during the Term of this Agreement; R&V agrees to maintain all equipment in good repair and working order. Such maintenance shall include, but not be limited to, all required Minnesota Department of Transportation inspections, annual vehicle inspections by an ASE Certified Automotive Technician, and regularly scheduled vehicle maintenance. The equipment required by the City's RFP and any additional equipment required by the City under this paragraph to provide services under this Agreement shall be garaged at R&V's premises.

R&V shall, at its expense, maintain all licenses, permits, and certificates required for the performance of the services under this Agreement including those required to meet all requirements of the State of Minnesota, Carver County, and the City of Waconia. R&V shall ensure its employees and agents are individually licensed, permitted, or certified as necessary to perform their assigned duties.

7. Personnel and Taxes. R&V warrants and agrees that it has or will employ and/or contract with a sufficient number of trained personnel to provide prompt services as ordered and directed by the City during the Term of this Agreement. R&V's employees and agents shall meet the standards described in the City's OFP's "Personnel" section.

R&V shall further indemnify the City against all liability and loss in connection with, and shall assume fully responsibility and liability for, payment of all federal, state, and local taxes or contributions imposed or required under employment insurance, social security and income tax laws, with respect to any employee of R&V or anyone directly or indirectly employed by R&V.

8. Independent R&V Relationship. It is expressly understood that R&V is an "independent contractor" and not an employee of the City. R&V shall have control over the manner in which the services are performed under this Agreement. R&V shall supply, at its own expense, all materials, supplies, equipment, and tools required to accomplish the services contemplated by this Agreement. Neither R&V nor its employees, agents, nor contractors shall be entitled to any benefits from the City, including, without limitation, insurance benefits, sick and vacation leave, workers' compensation benefits, unemployment compensation, disability, severance pay, or retirement benefits. Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or agency relationship between the Parties.

9. Monthly Reports. Within 10 days after the end of each calendar month, R&V will submit a report to the City setting forth all vehicles that are currently being stored at the City's direction and the disposition of all such vehicles.

10. Right of Inspection. R&V agrees that the City and any of its duly authorized representatives, at any time during normal business hours and as often as reasonably necessary, shall have the right to inspect, examine, audit, verify, excerpt, and transcribe any books, records, equipment, and facilities which are pertinent to or involve the services to be performed under this Agreement.

11. Insurance Requirements. R&V, at its expense, shall procure and maintain in force for the duration of this Agreement the following minimum insurance coverages:

- A. General Liability. R&V shall maintain Commercial General Liability Insurance in a minimum amount of \$100,000 per occurrence; \$300,000 annual aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. The City, including its elected and appointed officials, employees, and agents, shall be endorsed as additional insured.
- B. Fire and Property Damage. R&V shall carry a policy of insurance that covers at least \$10,000 of fire damage and other property damage.
- C. Automobile Liability. R&V shall maintain Business Automobile Liability Insurance, including owned, hired, and non-owned automobiles, and on-hook coverage, with a minimum combined single liability limit of \$1,000,000 per occurrence.
- D. Garagekeepers Insurance. R&V shall maintain Garagekeepers Legal Liability Insurance in a minimum amount of \$250,000.
- E. Hazardous Load Insurance. R&V shall maintain Hazardous Load Insurance if required by applicable federal and state law.
- F. Workers' Compensation. R&V shall maintain Workers' Compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota. R&V shall also carry Employers' Liability Coverage with minimum limits as follows:
 - \$500,000 – Bodily Injury by Disease per employee
 - \$500,000 – Bodily Injury by Disease aggregate
 - \$500,000 – Bodily Injury by Accident
- G. Additional Insurance Conditions.
 - 1. R&V shall, prior to commencing the services and then upon request, deliver to the City, a Certificate of Insurance as evidence that the above coverages are in full force and effect.
 - 2. The insurance requirements may be met through any combination of primary and umbrella/excess insurance. The City must be named as an additional insured on any umbrella/excess policy.

3. R&V's policies shall be primary insurance and non-contributory to any other valid and collectible insurance available to the City with respect to any claim arising out of R&V's performance under this Agreement.
 4. R&V's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' written notice for non-payment of premium.
12. Indemnification. To the fullest extent permitted by law, R&V agrees to defend, indemnify, and hold harmless the City, and its employees, elected officials, contractors, and agents from and against all claims, actions, damages, losses and expenses, including reasonable attorney fees, arising out of R&V's negligence or R&V's performance or failure to perform its obligations under this Agreement. R&V's indemnification obligation shall also apply to R&V's subcontractor(s), or anyone directly or indirectly employed or hired by R&V, or anyone for whose acts R&V may be liable. R&V agrees this indemnity obligation shall survive the expiration or termination of this Agreement.
13. Dispute Resolution. The City and R&V agree to informally negotiate all disputes related to this Agreement in good faith for a period of 15 days from the date of the notice of dispute prior to proceeding to file a lawsuit regarding the dispute.
14. General Provisions.
- A. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Parties and contains the entire agreement.
 - B. Compliance. The City and R&V agree to comply with all applicable federal, state, and local laws, ordinances, and regulations in the performance of this Agreement.
 - C. Assignment. R&V may not assign this Agreement or any of its obligations under this Agreement to any other person unless written consent is obtained from the City.
 - D. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both Parties.
 - E. Nondiscrimination. In the hiring of employees to perform work under this Agreement, R&V shall not discriminate against any person by reason of any characteristic or classification protected by state or federal law.
 - F. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota. All proceedings related to this Agreement shall be venued in Carver County, Minnesota.

- G. Records. R&V shall maintain proper records of all vehicles towed, stored, released, held, junked, and destroyed. These records shall be available at all times for inspection by the City's agents and employees. R&V shall maintain the ability to receive and send electronic copies of its records.
- H. Government Data/Privacy. R&V agrees to abide by the applicable provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, HIPAA requirements and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality. R&V understands that all of the data created, collected, received, stored, used, maintained or disseminated by R&V in performing those functions that the City would perform is subject to the requirements of Chapter 13, and R&V must comply with those requirements as if it were a government entity. This does not create a duty on the part of R&V to provide the public with access to public data if the public data is available from the City, except as required by the terms of this Agreement.
- I. Audits. Pursuant to Minn. Stat. Section 16C.05, subd. 5, R&V's books, records, documents, and accounting procedures and practices that are relevant to this Agreement, are subject to examination by the City and either the Legislative Auditor or the State Auditor for a minimum of six (6) years from the end of this Agreement.
- J. Waiver. The waiver by either party of any breach or failure to comply with any provision of this Agreement by the other Party shall not constitute a continuing waiver of such provision or a waiver of any other breach of, or failure to comply with, any other provision of this Agreement.
- K. No Waiver. Nothing in this Agreement is intended to and does not in any manner operate as a waiver of the City's immunities or tort limits contained in Minnesota Statutes chapter 466.
- L. Third Party Reliance. This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.
- M. Notices. All notices and other communications pursuant to this Agreement must be in writing and must be given by registered or certified mail, postage prepaid, or delivered by hand at the addresses set forth below:

Notice to City: City of Waconia
Attn: City Administrator
201 Vine Street South
Waconia, MN 55387

Notice to R&V: R & V Service & Towing LLC
217 7th St. NE
Mayer MN 55360

- N. Force Majeure. Except for payment of sums due, neither Party shall be liable to the other or deemed in default under this Agreement, if and to the extent that Party's performance is prevented by reason of force majeure. "Force majeure" includes war, an act of terrorism, a pandemic or epidemic, fire, earthquake, flood, and other circumstances which are beyond the control and without the fault or negligence of the Party affected and which by the exercise of reasonable diligence the Party affected was unable to prevent.
- O. Savings Clause. If any court finds any portion of this Agreement to be contrary to law, invalid, or unenforceable, the remainder of the Agreement will remain in full force and effect.
- P. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original, and which taken together shall be deemed to be one and the same document.

IN WITNESS WHEREOF, the Parties, have caused this Agreement to be approved on the date above.

City of Waconia, Minnesota

By: _____
Nicole Waldron
Its Mayor

By: _____
Jacqueline Schulze
Its Clerk

R & V Service & Towing LLC

By: _____

Name: _____

Its: _____

EXHIBIT A

**CITY OF WACONIA,
MINNESOTA
REQUEST FOR PROPOSALS
FOR TOWING,
IMPOUNDING, AND
STORAGE OF MOTOR
VEHICLES.**

Introduction

The City of Waconia, Minnesota, is seeking proposals from qualified and experienced firms to provide 24-hour towing, impounding, and storage of motor vehicles on an as needed and directed basis for the purpose of winter roadway plowing and snow storage. Services are requested for November 1, 2023 thru April 1, 2024.

Proposals:

It is the intent of the City of Waconia to award a contract to the Contractor who submits the proposal deemed to best meet the needs and requirements of the City.

Proposals must be received by 12:00 p.m. (noon) Wednesday, October 11, 2023.

Submit proposals to: **Towing Proposal
City of Waconia
201 Vine Street South
Waconia, MN 55387**

The City of Waconia retains the right to waive any informality or irregularity in any proposal received, and to accept the proposal, which in its judgment, is in its own best interest. The award of the contract will be based upon the evaluation criteria. The City of Waconia reserves the right to reject any and all proposals.

RFP Questions and Contact:

Questions relative to the RFP should be directed to: **Finance Director, Nicole Meyer
City Hall
201 Vine Street South
Waconia, MN 55387
(952) 442-3108
nmeyer@waconia.org**

Terms and Conditions:

The following terms and conditions detail the requirements to provide 24-hour motor vehicle towing, impounding and storage services for the City of Waconia on an as needed and directed basis. Such direction is to be by the City Administrator, City of Waconia Law Enforcement (as contracted with Carver County Sheriff's Department), City Public Service Staff or their authorized and legal representatives.

Equipment:

Contractor shall provide sufficient equipment for the operator of the towing service to be able to tow vehicles including but not limited to:

- A. Equipment capable of towing automobiles, light trucks, vans, utility vehicles, 4x4's, all-

terrain vehicles, commercial vehicles, heavy trucks, and any other vehicle, motorized or not and further equipped to control movement of the towed vehicle; and

- B. Trucks and equipment of sufficient quantity that allows the Contractor to meet the required response time regardless of season, time, date, or event; and

A listing of all equipment to be utilized shall be submitted with the proposal. Such listing shall show the make and model of all equipment available for use under this contract, along with size and all other pertinent information, such as specialized equipment not necessarily herein specified, but which may be a factor in performing effectively and efficiently.

All equipment to be used by the contractor under this contract shall be maintained in good repair and condition. The City reserves the right to inspect the equipment from time to time for the purpose of determining that equipment condition is in conformance with the terms and conditions of the specifications and the contract.

Personnel:

The Contractor performing under this contract shall assume all and full responsibility for the conduct of his/her employees. The Contractor guarantees that all of the employees performing under this contract will be adequately trained in their profession, will respond promptly to all calls, be clean and neat in appearance, use decent language, free of profanity, and treat the public courteously at all times.

Request for service from City of Waconia Staff must be given first priority by all dispatchers.

Drivers shall possess and carry a valid Minnesota driver's license commensurate with the truck they are operating and be proficient in the operation of such equipment. All drivers shall operate the Contractor's equipment in a safe and prudent manner, complying with all traffic laws.

Failing to meet any or all of the requirements of this section may result in cause for terminating the contract at any time as per the conditions specified for contract termination.

Licensing:

Contractor shall obtain and maintain in effect throughout this contract, all licenses, permits and certificates as required by the State of Minnesota, Carver County, and the City of Waconia for the operation of the service required to be performed by the Contractor under this contract. The Contractor shall operate and maintain its parking and storage facility in compliance with the terms of this contract and all State and City applicable laws, ordinances, rules, and regulations that are presently in effect or which may hereafter be adopted.

Storage Facilities:

To be considered for selection, all storage and parking lot facilities and all equipment used by the contractor under this contract must be located within a 20-mile radius of the city limits of the City of Waconia. The successful Contractor must demonstrate that their storage and parking lot facilities meet or are capable of meeting all the applicable State and local building code standards and municipal license and zoning requirements, including those relating to outdoor storage, screening, and landscaping of the City in which the facility is located. A site inspection may be part of the review process.

The Contractor will be solely responsible for loss or damage to any vehicle, including all equipment and contents, from the time direction is given by the authorized City representative turning the vehicle over to the Contractor or his Agent, until such time as the vehicle is legally released to the registered or actual owner or legal agent thereof.

Insurance:

Contractor shall obtain and maintain in effect throughout this contract liability, property damage and fire insurance which shall contain coverage in an amount not less than \$100,000 to any one person and not less than \$300,000 total in any one incident and not less than \$10,000 fire and property damage coverage.

Availability:

Contractor shall provide towing services 24 hours per day, November 1 through April 1. Contractor shall provide a telephone answering service 24 hours a day, seven days per week, for the purpose of receiving requests for service pursuant to this contract.

The Contractor must provide hours of operation for release of impounded vehicles as part of the proposal. Hours of operation must be posted in a prominent place on the front door or front gate of the facility.

Access to the storage facility shall be available to Public Services Staff or other authorized and legal representative, at all times and without costs. The City shall have the right to inspect the Contractor's equipment, storage facility and pertinent records with notice, during normal business hours.

Response Time:

Upon receipt of request for towing service by the City, Contractor shall dispatch the necessary trucks and equipment to arrive at the site so designated within the specified time, which shall not be more than thirty (30) minutes, after receipt of request. Should the Contractor fail to appear at a designated tow point within the specified time after receiving a call for a tow, the City reserves the right to call another towing service to perform the work.

If at any time, it becomes necessary for the City to request the services of another towing service for the reasons detailed above, the City retains the right to hold the Contractor retained under this contract responsible for any additional charges over and above the fee schedule recorded in this proposal. Such charges shall be assessed only if the response time is due to negligence on the part of the Contractor. Such negligence might include equipment failure.

The City reserves the right to call the closest available towing company in the event of an emergency as determined by the City, regardless of any contractual relationship with the City. At the discretion of the City, response time may be altered in the event of adverse road, traffic, or weather conditions.

Contractor Services:

The Contractor agrees to provide all services required by the City of Waconia for towing, impounding, transport, and storage of vehicles. These services shall be provided in accordance with the terms of the contract.

Vehicles will not be driven at any time during the towing procedure, except as incidental to the impound process. In the event that the vehicle is without tires or has flat tires, the Contractor is to tow the vehicle without damaging the wheels and not tow any vehicle on its rims.

Vehicle Release:

All vehicles towed or impounded are to be released in accordance with procedures adopted by the Contractor. Vehicles shall not be released without proper proof of ownership. If the vehicle is to be driven from the impound lot, proof of current insurance covering the vehicle and proof of a valid driver's license by the prospective driver shall be required.

At the time of the return of the vehicle, the Contractor shall give a receipt in writing which shall state the date of such vehicle release together with the charges enumerated thereon and the purpose for which the charges were made. The receipt shall be made in one original and one copy, all of which shall be signed by the Contractor and the person to whom the vehicle release is made. The Contractor shall retain the original of the receipt and shall deliver one copy to the owner of the vehicle. The City may request a copy of the original receipt at any time.

Records:

The Contractor will be responsible for maintaining proper records of all vehicles towed, stored, released, still held, junked, and destroyed. The records are to be available at all times for inspection by authorized City officials. The contractor must have the ability to receive and send documents electronically in addition to paper copies.

Towing Charges:

The performing Contractor shall be entitled to a charge for his/her towing and storage services pursuant to the fees submitted in the accompanying proposal. The Contractor shall agree that neither the City nor any Department thereof is responsible for any charges as a result of towing and/or storage and that the Contractor assumes all liability for any and all unpaid charges.

The Contractor agrees to accept as method of payment, cash, and one other method of payment such as check or credit card.

Evaluation Criteria:

The City of Waconia will evaluate all proposals received for the purposes of selecting a Contractor. The following factors, listed in relative order of importance, will be considered in making the selection:

- A. SERVICE: Response Time, Equipment, Location, Availability
- B. SECURITY/FACILITIES: Inside/Outside Storage Facility Security, Location, Procedures
- C. QUALIFICATIONS/EXPERIENCE: Staff Qualifications, Business References
- D. COSTS: Price List, Costs to Customers

The Contractor shall clearly identify any proposed deviations from the Terms and Conditions in their response to this RFP. Each exception must be clearly defined and referenced to the proper paragraph. If no exceptions are noted in the Contractor's proposal, the City will assume complete conformance and the successful Contractor will be required to perform accordingly. Alternate written proposals submitted may be considered; however, the City will make final determination as to suitability and compliance.

Proposals submitted not meeting all requirements may be rejected.

EXHIBIT B

Submittal Requirements Worksheet

Please return this worksheet by Wednesday, October 11, 2023 at 12:00 p.m. (noon) to:

City of Waconia
Attn: Towing Proposal
201 Vine Street South
Waconia, MN 55387

A. SERVICE

- List the hours your facility is open to the public for release of impounded vehicles.
DAILY 8AM-5PM
- List the location and size of main storage facility and any other storage sites indicating which sites would be used to service this contract.
R&V SERVICE - 217 7TH ST, MAYER
CURRENTLY HAVE 55' X 58' FENCED AREA. WE WILL HAVE A 50' X 90' ADDITIONALLY BEGINNING OF NOVEMBER
- State guaranteed response time.
WITHIN 30 MINUTES
We are well known for our fast response times
- Include a list of the tow trucks and equipment to be utilized under this contract. If Contractor does not presently own or lease enough tow trucks to meet the minimum number required, state what arrangements will be made.
1- WRECKER WITH DOLLIES LIGHT DUTY
2- 21' FLATBEDS - UP TO 10,000 LBS WITH WHEEL LIFTS
1- 28' FLATBED WITH WHEEL LIFT - UP TO 20,000 LBS
- State the maximum weight vehicle you can tow.
20,000 LB VEHICLE UP TO 9.5' TALL
- Describe equipment to be used in dispatching wreckers.
CELL PHONES & TOWBOOK DISPATCH APP.
- State your general release procedure. Include any other situation in which your procedure would vary from the general procedure and what your procedure would be in that situation.
Registered owner's must be with to release vehicle or have owner's authorization. We have them sign a release form as well. Payment is due during release.

- We also take pictures of prior damages before hooking up to avoid false accusations.
- State your procedure for handling and resolving complaints from the public regarding the services you would provide under this agreement.
We try to explain the situation or reasoning of why their vehicle was towed. If it's because of our services we try to understand their concerns and correct issues if needed.
 - Explain fully the methods of payment you will accept from vehicle owners. State the procedures for vehicle owners to pay your charges.
Owner's will be able to pay with Card or Cash.
We have card processing in our office as well as with our drivers.
 - Explain how you will inform the public of your charges and of the procedures described in questions above. Explain how you will inform the City and the public of any procedural change.
We will inform the city of any changes, but don't foresee any changes to be done.

B. SECURITY/FACILITIES

- Provide number of exterior & interior storage parking spaces.
We have 35 parking spaces in our fenced in areas. We also have plenty of out of fence exterior spaces.
- Describe the security features of the storage facility - fencing, lighting, cameras, access, etc.
We have a 3-Bay Repair Shop that could hold 4 cars if necessary. We have a 55'x58' Fenced area and will have a 50'x90' Fenced area in November. Both Fences have barb wire at the top, have lighting and have cameras.
- Explain the policies and procedure pertaining to access of vehicles you would follow under this contract. Include any other situation in which your procedure would vary from the general procedure.
We do not access the vehicles unless necessary to try to steer them onto our bed or to get them into neutral, if possible.

C. QUALIFICATIONS/EXPERIENCE

- Provide company's legal name, address, and principal owners.
R&V Service & Towing LLC
217 7th St. NE, Mayer, MN 55360
Zachary & Lauren Stifter
Shop/Office - 952-657-2119
Towing - 952-451-7715
- List previous and current contracts and agencies that are considered identical or similar to the scope of work described in this contract.
We work with Carver County Sheriff's Office & State Patrol for accidents & impounds.
We have worked with the City of Watertown for many years & are currently working with the City of Mayer.
We work with other local businesses for their towing needs.
- Bob's Repair - Waco Repair, Summit Auto Care to name a few.

- List subcontractors, if any, to be used in performing this service.

We feel we shouldn't need to subcontract this job out.

- Evidence of Insurability at required levels.

*Progressive is our insurance with on-hook coverage
along with a \$1,000,000 Policy*

- Include a list of references that can attest to Contractor's ethical, quality and service standards. The list shall include the complete name, address, and telephone number of each reference, with a description of his or her relationship to your firm.

*Corporal Robert Cripps - Carver County Sheriff's Office 320-583-
5917
Deputy Larry Lessard - Carver County Sheriff's Office 952-457-6474*

D. PRICE

- Complete enclosed Price Sheet

TOWING, IMPOUNDING AND STORAGE PRICE SHEET

R&V Service & Towing LLC
Name of Company

Towing

Tow of automobiles and other vehicles under 10,000 pounds GVW	\$ <u>140</u>
Tow of vehicles between 10,001 and ^{20,000} 26,000 pounds GVW	\$ <u>155</u>
Tow of vehicles over 26,000 pounds GVW	\$ <u>N/A</u>
Additional charge, if any, for use of dolly	\$ <u>25</u>
Additional charge, if any, for use of low-bed truck or trailer	\$ <u>N/A</u>
Additional charge, if any, for use of flat-bed truck	\$ <u>None</u>
Additional charge, if any, for use of winch with tow	\$ <u>25 min. \$125/hr.</u>
Fuel Surcharge, if any	\$ <u>None</u>
Administrative Fees, if any	\$ <u>None</u>

Storage Charges

First _____ day period:	Inside storage	\$ <u>65</u>
When it's in our lot, minimum of one day, days add/start at M.dnight.	Outside storage	\$ <u>35</u>
	Large vehicle storage	\$ <u>N/A</u>
	Each additional day:	Inside storage
	Outside storage	\$ <u>35</u>
	Large vehicle storage	\$ <u>N/A</u>



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Agreement for Auction Services					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):	Consent	☒ X	Regular Session	☐	Discussion Session	☐	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-236, Approving Agreement with Jeff Martin Auctioneers, Inc. for Auction Services							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Since 2021, City staff have been working with Fahey Sales Auctioneers & Appraisers for the sale and disposal of the City's surplus equipment. They operate out of Glencoe, MN and have made it easy for City staff to sell and dispose of equipment and supplies that are no longer being utilized. Previous to this contract, staff would obtain the City Council's approval to deem the equipment surplus and then listed the items on a government based website. Items would sometimes sell after several listings and then staff spent several hours working to ship the products and collect payment from buyers. Overall, it was a very time consuming process. Staff have been happy to work with an auctioneer after City's Council's approval and have seen great return on our surplus items by working with an auctioneering firm. In the last year, Fahey Sales Auctioneers & Appraisers was purchased by Jeff Martin Auctioneers Inc. The transition was seamless for City staff and actually added some additional online tools that provided sale information. Staff has continued to work with local partners when we have a sale of equipment or supplies. These local partners are able to pick up our surplus items, advertise them for sale, and then send a check when the sale is complete. The check does include an outline of what was sold and what it was sold for along with percentages paid to the City. We receive a call from Jeff Martin staff if items do not sell and we determine the next course of action. The City's current contract for auctioneer services is with Fahey Sales and the agreement was grandfathered to Jeff Martin Auctioneers. In review of our contract, it was found that some updates would benefit the City if we moved to a new contract with Jeff Martin. These benefits are in our favor and include additional commission on non-titled and heavy equipment. We have also set the agreement to be a 2 year agreement that expires on 11/1/2025; this locking in our transportation and seller commission rates. Staff requested a two year contract to ensure the agreement is reviewed regularly and future City Councils have the opportunity to provide input for this service. Jeff Martin Auctioneers works with many cities in the metro area; this including the City of Minneapolis, City of Plymouth, City of Eden Prairie, and the City of Chaska. Staff recommends approval of the attached agreement with Jeff Martin Auctioneers Inc.							
<u>Attachments:</u>							
1. 2023-236 Res_Auctioneer_Contract_11.06.23.doc							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information:				Planning Commission			
☐ Budgeted				Parks and Recreation Board			
☒ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			



**CITY OF WACONIA
RESOLUTION NO. 2023-236**

**RESOLUTION APPROVING AGREEMENT WITH JEFF MARTIN AUCTIONEERS, INC. FOR
AUCTION SERVICES**

WHEREAS, City staff have worked with Fahey Sales Auctioneers & Appraisers since 2021; and

WHEREAS, Fahey Sales Auctioneers & Appraisers was acquired by Jeff Martin Auctioneers Inc.; and

WHEREAS, City staff recently reviewed the contract language and are requesting an updated contract with Jeff Martin Auctioneers, Inc. for a 2-year term – with an updated expiration date of November 1, 2025; and

WHEREAS, the updated contract benefits the City with updated commission rates and locks in transportation and seller commissions.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Waconia hereby approves the agreement with Jeff Martin Auctioneers, Inc. for auction services through November 1, 2025.

Adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

Attest: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Donation Acceptance - Cash Donation for Park Project					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):	Consent	X	Regular Session		Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-237, Accepting Cash Donation for Park Project							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City received a cash donation of \$20.00 from an anonymous donor requesting it be applied to the City's park project. With this request, staff applied the donation to the current open capital project at Lakeview Terrace Park. The funds have been recorded as a donation in the PIR Capital Project Fund (103). <u>Attachments:</u> 1. 2023-237 Res_Donations_Received_Parks_11.06.23.doc							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
PIR Capital Project Fund							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
X _____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-237**

RESOLUTION ACCEPTING CASH DONATION FOR PARK PROJECT

WHEREAS, the City of Waconia is generally authorized to accept contributions of real and personal property pursuant to Minnesota Statutes Sections 412.21 and 465.03 for the benefit of its citizens and is specifically authorized to accept gifts and requests for the benefit of facilities, services and the development of programs to benefit residents pursuant to Minnesota Statutes Section 471.17; and

WHEREAS, the following persons and/or entities have offered to contribute the items set forth below to the City:

<u>Name of Donor</u>	<u>Item</u>	<u>Value</u>
Anonymous	Cash	\$20.00

WHEREAS, these donations have been contributed for the benefit of residents within the City's corporate limits either alone or in cooperation with others, as allowed by law; and

WHEREAS, the City Council hereby finds that it is appropriate to accept the contributions offered for the City's current capital park project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WACONIA, MINNESOTA, AS FOLLOWS:

1. The contribution described above is hereby accepted and acknowledged with gratitude.
2. Said contribution shall be used for the designated purposes.
3. That the Finance Director is hereby directed to issue receipts to the donor (if identified) acknowledging the City's receipt of the donor's contribution.

Adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Donation Acceptance - Cash Donations for City Square Park War Memorial Monument Restoration					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):	Consent		Regular Session	X	Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-238, Accepting Cash Donations for City Square Park War Memorial Monument Restoration from Community Giving on Behalf of American Legion Post 150							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City received a donation from Community Giving on behalf of American Legion Post 150 for the City Square Park War Memorial Monument Restoration projects. Total donations received by the City: \$20,000 - 10/2/2023 With the Council's acceptance of the donation, staff will recognize the donation as revenue in the PIR Capital Project fund. Corresponding expenditures for the project are being capitalized as the projects are completed. Finance staff is tracking all donations received and expenditures paid for these projects. Regular updates will be provided to American Legion Post 150 as they are available. <u>Attachments:</u> 1. 2023-238 Res_Donations_Received_War_Memorial.doc							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: PIR Capital Project Fund (103)							
Budget Information: Budgeted X Non Budgeted Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-238**

**RESOLUTION ACCEPTING CASH DONATIONS FOR CITY SQUARE PARK WAR
MEMORIAL RESTORATION FROM COMMUNITY GIVING ON BEHALF OF AMERICAN
LEGION POST 150**

WHEREAS, the City of Waconia is generally authorized to accept contributions of real and personal property pursuant to Minnesota Statutes Sections 412.21 and 465.03 for the benefit of its citizens and is specifically authorized to accept gifts and requests for the benefit of facilities, services and the development of programs to benefit residents pursuant to Minnesota Statutes Section 471.17; and

WHEREAS, the following persons and/or entities have offered to contribute the items set forth below to the City:

<u>Name of Donor</u>	<u>Item</u>	<u>Value</u>
American Legion Post 150	Cash Donation for War Memorial Restoration	\$20,000.00

WHEREAS, these donations have been contributed for the benefit of residents within the City's corporate limits either alone or in cooperation with others, as allowed by law; and

WHEREAS, the City Council hereby finds that it is appropriate to accept the contributions offered.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF WACONIA, MINNESOTA, AS FOLLOWS:

1. The contribution described above is hereby accepted and acknowledged with gratitude.
2. Said contribution shall be recognized as donation revenue in the PIR Capital Project fund 2023 operating budgets.
3. That the Finance Director is hereby directed to issue receipts to the donor acknowledging the City's receipt of the donor's contribution.

Adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date: November 6, 2023

Item Name: Variance - 483 Lakeview Terrace Boulevard

Originating Department: Community Development

Presented by: Ethan Nelson

Previous Council Action (if any):

Item Type (X only one):	Consent		Regular Session	X	Discussion Session	
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RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)

Adopt Resolution #2023-239 approving a variance to demolish and construct a new home to 29.3% impervious surface versus the 25% maximum allowed in the Shoreland Overlay District.

EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)

BACKGROUND

Applicant: M&M Home Contractors

Owner: Tim & DeAnn Buss

Address: 483 Lakeview Terrace Boulevard

PID# 752950010

Zoning: R-2, Single Family Residential District

Special District: Shoreland Overlay District

REQUEST:

The City has received a variance application from M&M Home Contractors (the "Applicant") on behalf of Tim and DeAnn Buss (the "Owners"), and is requesting approval of a variance to demolish the existing home and rebuild a new home that would result in a proposed impervious surface of 29.3% versus the maximum 25% allowed in the Shoreland Overlay District. The applicants indicated the variance is necessary due the existing lot being smaller than average and are proposing to install stormwater mitigation systems in response to the impervious surface increase.

APPLICABLE ORDINANCE PROVISIONS:

Section 900.05 – District Regulations, Subd. 2.B. - R-2, Single-Family Residential District

Section 900.06.7 - Shoreland Overlay Regulations

Section 900.12 – Administration, Enforcement and Procedures, Subd. 4 – Variances

VARIANCE REVIEW CRITERIA:

Waconia City Code Section 900.12, Subd. 4 and Minnesota State Statue 462.357, Subd. 6 establishes criteria to be considered when contemplating the issuance of a Variance in terms of “practical difficulty” as follows: “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the terms of the Variance are consistent with the Comprehensive Plan.” So a City evaluating a Variance application should make findings as to:

1. Is the Variance in harmony with the purposes and intent of the ordinance?
2. Is the Variance consistent with the Comprehensive Plan?
3. Does the proposal put the property to use in a reasonable manner?
4. Are there unique circumstances to the property not created by the landowner?
5. Will the Variance, if granted, alter the essential character of the locality?

State Statute specifically notes that economic considerations alone cannot create a practical difficulty. Whereas, practical difficulties exist only when the three statutory factors are met (1. Reasonableness, 2. Uniqueness, and 3. Essential character).

VARIANCE ANALYSIS:

The subject property currently includes an existing principal structure that was built in 1955, and a rear yard shed. The rear yard deck and west side of the house currently exist within setbacks. The applicant is proposing to remove all existing improvements and construct the new home in conformance with the setbacks required by code and to exceed the maximum hardcover allowed by 4.3%. In addition to the aforementioned site improvements, the applicant is also proposing to install an infiltration trench and restore the shore impact zone with native grass area and trees. The existing lot circumstances and proposed changes to the lot conditions are reflected in Table 1.1 below.

Table 1.1

Lot Requirements	R-2 Single Family Residential District & Shoreland Overlay District	Existing Conditions	Proposed Conditions
Minimum Lot Size	20,000 sq. ft.	12,288 sq. ft.	12,288 sq. ft.
Maximum Impervious Surface	25%	24.9%	29.3%
Front Yard Setback	25 ft.	42.8 ft.	25.0 ft.
Left (West) Side Yard Setback	10 ft.	7.9 ft.	10.4 ft.
Right (East) Side Yard Setback	10 ft.	14.3 ft.	10.0 ft.
OHWL Setback	50 ft.	48.8 ft.	50.2 ft.

PLANNING CONSIDERATIONS:

1. The existing home and improvements are currently 3,063 sq. ft. The applicant is proposing to improve the property to 3,600 sq. ft. This would increase the hardcover on the site by 547 sq. ft.
2. The property currently exists within the west side and shoreland structure setbacks. The applicant is proposing to build the new structure within all required setbacks.
3. The applicant's storm water plan proposes to install an infiltration trench that would serve 2,360 sq. ft. of the property. Of that area, 1,300 sq. ft. is impervious.
4. The City Engineer has reviewed the proposed storm water plan and has confirmed that the system will be able to handle the area indicated above.
5. The applicant is also proposing to restore the shore impact zone with an access path to the lake. This restoration includes a native grass area and a row of four (4) pine trees. The applicant has also indicated they would work with Carver County Water Management Organization (CCWMO) to finalize suitable installation.
6. CCWMO reviewed the proposed infiltration trench and the native shoreline buffer and indicated that the improvements are sized to provide enough treatment for the proposed increase in impervious surface to meet WMO rules.
7. Carver Soil & Water Conservation District recommends either swamp white oaks or bur oaks to be planted within the Shore Impact Zone, which the applicant has reflected in their proposed site plan.
8. The applicant submitted a report, prepared by Kent Brander, PE, detailing an analysis of the proposed stormwater design for the subject property that indicated a net water quality benefit for Lake Waconia. In addition, the applicant has also submitted DNR stormwater and shoreline best management practices (BMPs) and highlighted vegetated filter strips and the water quality benefits they provide.

RECOMMENDATION

The Planning Commission, at their regular meeting on October 12th, 2023, reviewed the pertinent information and recommended approval of the proposed Variance application via a 5-0 vote.

If the City Council chooses to approve the afore-mentioned land use application, the Planning Commission and staff would recommend the approvals with the following conditions:

1. Due to the large site disturbance for construction of a new home, perimeter control shall be provided along the lake side of the project.
2. The applicant shall submit and install a landscape plan at the time of permit application that details the restoration of the shoreline with native and/or natural vegetation to provide habitat, functional soil stability and vegetative screening from view from public waters to the satisfaction of the Community Development Department and Carver County Soil & Water Conservation District.
3. The applicant shall provide the City with cash, corporate surety bond, approved letter of credit or other surety satisfactory to the City to guarantee the proper installation and growth of the approved plans.
4. Final installation of the storm water plan shall meet the satisfaction of the City Engineer.

Attachments:

1. [2023-239_Variance_Lakeview_Terrace.docx](#)
2. [Location Map 483 Lakeview Terrace Blvd \(1 Page\)](#)
3. [Waconia Variance Request Narrative \(1 Page\)](#)
4. [Existing and Proposed Site Plan \(3 Pages\)](#)
5. [Proposed House Elevations \(2 Pages\)](#)

FINANCIAL IMPLICATIONS:

Funding Sources & Uses:

Budget Information:

_____ Budgeted
 _____ Non Budgeted
 _____ Amendment Required

ADVISORY BOARD RECOMMENDATIONS:

Planning Commission

Parks and Recreation Board

Safari Island Advisory Board

Other

**CITY OF WACONIA
RESOLUTION 2023-239**

**A RESOLUTION APPROVING A VARIANCE
FOR THE PROPERTY LOCATED AT 483 LAKEVIEW TERRACE BOULEVARD**

WHEREAS, M&M Home Contractors (the “**Applicant**”), has submitted a Variance application for the property located at 483 Lakeview Terrace Boulevard (the “**Property**”) pursuant to Section 900.12 of the City Zoning Code; and

WHEREAS, the subject parcel is identified as PID# 752950010; and

WHEREAS, the City received a variance application from the Applicant to demolish the existing home and rebuild a new home that would result in a proposed impervious surface of 29.3% versus the maximum 25% allowed in the Shoreland Overlay District; and

WHEREAS, the Planning Commission, at their regular meeting on October 12th, 2023, reviewed the pertinent information and recommended approval of the proposed Variance application via a 5-0 vote with the following conditions:

1. Due to the large site disturbance for construction of a new home, perimeter control shall be provided along the lake side of the project.
2. The applicant shall submit and install a landscape plan at the time of permit application that details the restoration of the shoreline with native and/or natural vegetation to provide habitat, functional soil stability and vegetative screening from view from public waters to the satisfaction of the Community Development Department and Carver County Soil & Water Conservation District.
3. The applicant shall provide the City with cash, corporate surety bond, approved letter of credit or other surety satisfactory to the City to guarantee the proper installation and growth of the approved plans.
4. Final installation of the storm water plan shall meet the satisfaction of the City Engineer.

WHEREAS, the City Council finds and concludes:

- 1) The property would be put to use in a reasonable manner as the new home would better conform to site setbacks and shore impact zone requirements.
- 2) The variance is in harmony with the purposes and intent of the ordinance because the home is similar to other single-story homes in the neighborhood.
- 3) The applicant’s request is reasonable because the proposed increase in impervious surface is offset by a trench drain system and shore impact zone improvements.

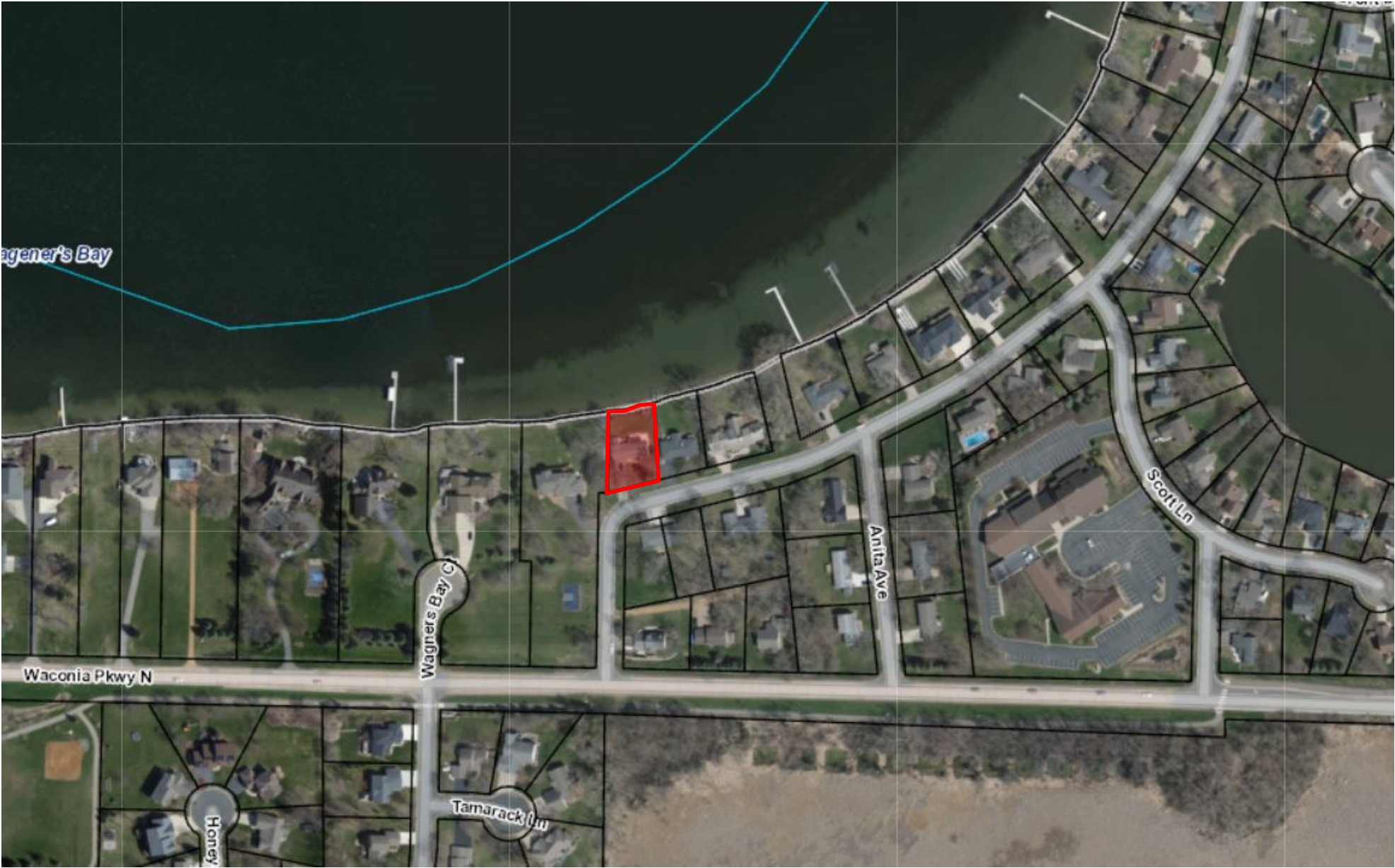
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Waconia hereby approves the Variance application for M&M Home Contractors to demolish the existing home and rebuild a new home that would result in a proposed impervious surface of 29.3% versus the maximum 25% allowed in the Shoreland Overlay District subject to the conditions, findings and recommendations of the Waconia City Council and Planning Commission stated above.

Adopted by the City Council of the City of Waconia this 6th day of November, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk

LOCATION MAP—483 LAKEVIEW TERRACE BLVD.



Our names are Tim and DeAnn Buss. We are applying for a variance to exceed the current hardcover lot rule by 5% for our property at 483 Lakeview Terrace Blvd, Waconia, MN. This would result in an increase from 25% to 30% hardcover.

We have been working with M & M Construction on the plan to build our new home at this location. We have owned this property since 2010. We are both from the area as Tim grew up in Lester Prairie and DeAnn in Young America.

The conditions to support us in making the request are: we have a curved lot at the end of Lakeview Terrace Blvd and it is smaller than most lots on the boulevard (making it more difficult to build what we believe is appropriate for the neighborhood without slightly going over) We are not exceeding any setbacks.

We are requesting approval to be granted as we will invest in the proper water runoff filtration systems expected to more than mitigate runoff that will lead to a better outcome than doing nothing. The result is expected to be no runoff or erosion. We see this as a benefit to our yard AND it will not affect any neighboring properties in any way, (visually or operationally).

We are looking to build a modest "Cottage" looking structure that will be a very pleasant look and fit well within the neighborhood.

Thank you for your help and your consideration for our home project.

Tim and DeAnn Buss

CERTIFICATE OF SURVEY for: M&M HOME CONTRACTORS

EXISTING CONDITIONS

PROPERTY DESCRIPTION

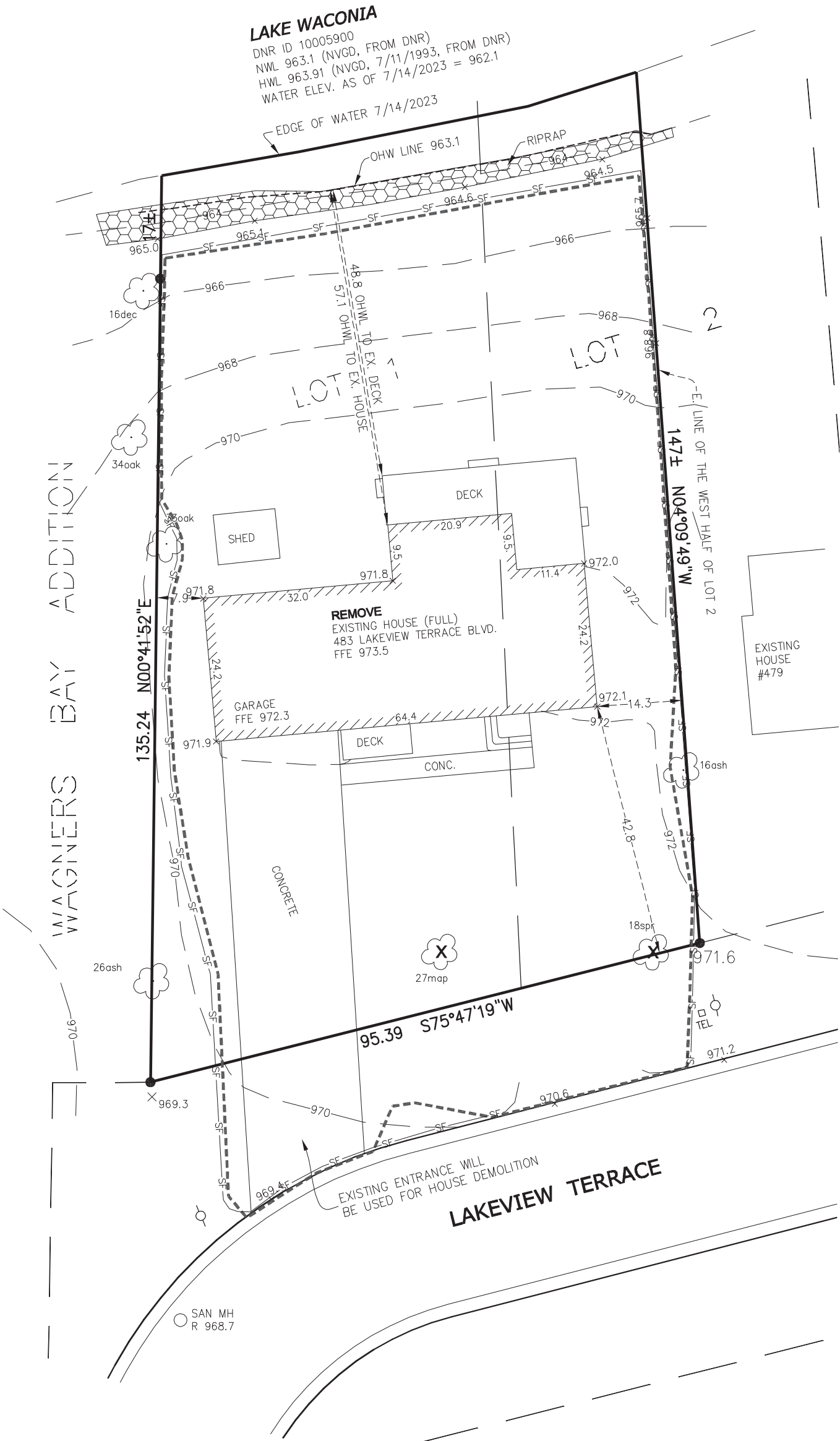
Lot 1 and the Westerly Half (front and rear) of Lot 2, Block 1, "Harms Lake View Terrace", according to the recorded plat thereof.

PROPERTY INFORMATION

Property Address:
483 Lakeview Terrace Blvd.
Waconia, MN 55387

PID 752950010

SEE SHEET 2 FOR IMPERVIOUS SUMMARY



CERTIFICATION

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

Curt J. Kallio

Curtiss J. Kallio, Lic. No. 26909

7/27/2023

Date



SISU LAND SURVEYING

2580 Christian Dr.
Chaska, MN 55318
612-418-6828

JOB NO.: 202209

CERTIFICATE OF SURVEY for: M&M HOME CONTRACTORS

PROPOSED CONDITIONS

PROPERTY DESCRIPTION

Lot 1 and the Westerly Half (front and rear) of Lot 2, Block 1, "Harms Lake View Terrace", according to the recorded plat thereof.

PROPERTY INFORMATION

Property Address:
483 Lakeview Terrace Blvd.
Waconia, MN 55387

PID 752950010

PROPOSED ELEVATIONS

Garage Floor at drive = 974.2
Top of Garage Foundation = 974.6
Top of House Foundation = 975.6
Lowest Floor = 966.9

AREAS & IMPERVIOUS

Parcel Area to OHWL = 12,288± sq. ft.

Existing Impervious Areas

House & Garage = 1756 sq. ft.
Driveway = 1061 sq. ft.
Walk = 114 sq. ft.
Shed = 88 sq. ft.
Front stoop = 44 sq. ft.
Total Impervious Surface = 3063 sq. ft. = 24.9%

Proposed Impervious Area

House & Garage = 2742 sq. ft.
Driveway = 549 sq. ft.
Walk = 61 sq. ft.
Front stoop = 44 sq. ft.
Screen porch (lakeside, patio below) = 204 sq. ft.
Total Proposed Impervious = 3600 sq. ft. = 29.3%

PROPOSED SHORELINE RESTORATION

Native Grass Area
Seed with MnDOT Seed Mixture 35-641
or other approved prairie seed mixture
Confirm seeding/planting with Carver County

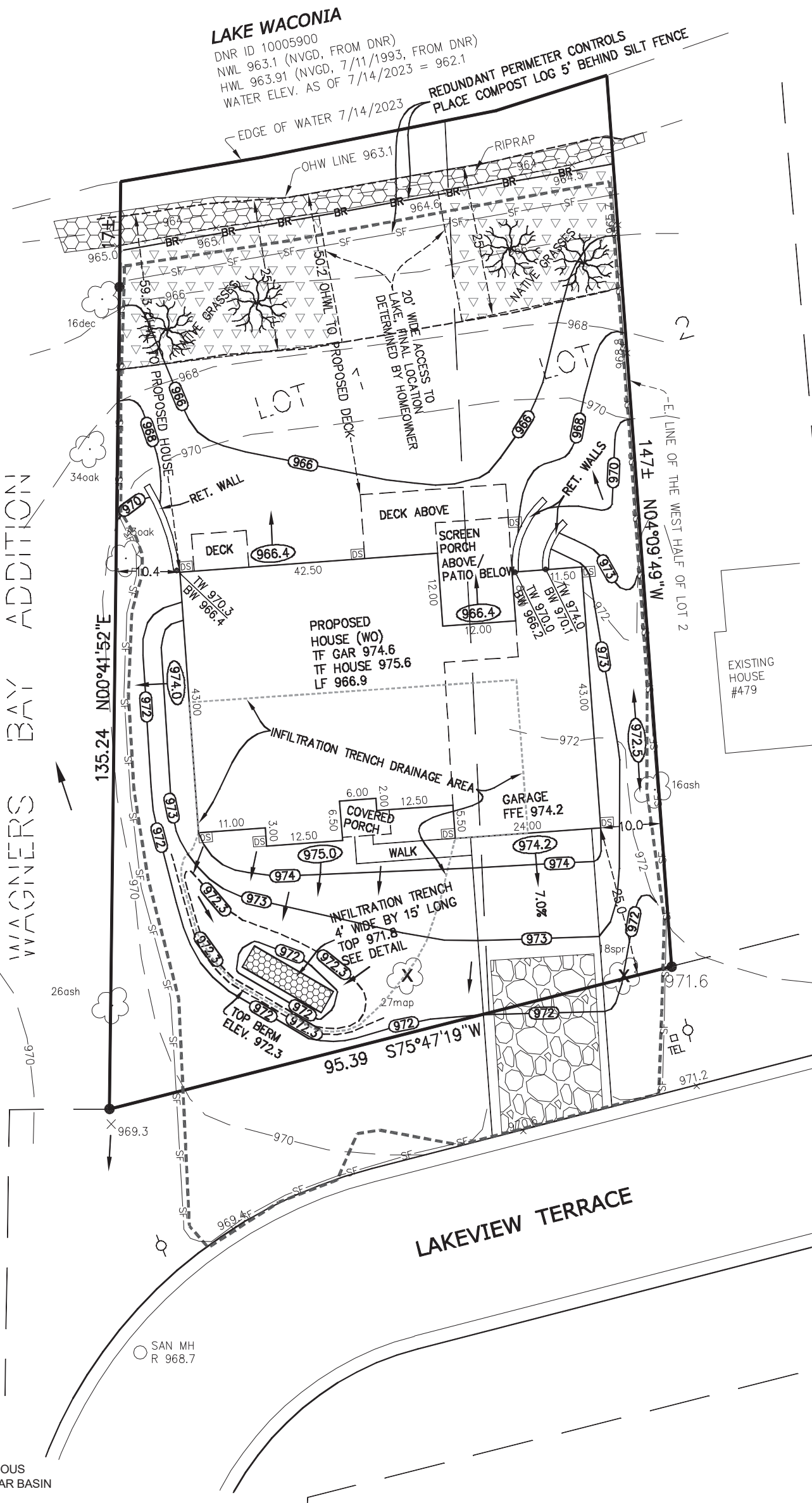
(4) Proposed Swamp White Oak
Final type and location per landscaper

Approximate drainage area to
infiltration trench = 2360 sq. ft.
(Impervious = 1300 sq. ft.)

STORMWATER MITIGATION

To mitigate the proposed increase in impervious surface, a rock infiltration trench is proposed as shown. Design details are shown on Sheet C3.

Approximate drainage area to
infiltration trench = 2360 sq. ft.
(Impervious = 1300 sq. ft.)



LEGEND

- XXX.X Denotes Proposed Elevation
- XXX.X Denotes Existing Elevation
- Denotes Surface Drainage
- Denotes Offset Hub or Spike
- Denotes Drain, and Utility Ease.
- Denotes Iron Pipe Found
- Denotes Iron Pipe Set
- 900— Denotes Existing Contour
- 864— Denotes Proposed Contour
- SF Denotes Silt Fence
- BR Denotes Compost Log
- Denotes Rock Construction Entrance
- Denotes Construction Limits
- Denotes Anticipated Downspout Location

REVISED 08/04/2023 ADDED NATIVE GRASSES; REDUCED IMPERVIOUS
REVISED 08/22/2023 ADDED DOWNSPOUTS; ADD'L CONTOURS NEAR BASIN
REVISED 09/28/2023 PINES CHANGED TO SWAMP WHITE OAK

CERTIFICATION

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

Curt J. Kallio
Curtiss J. Kallio, Lic. No. 26909

9/28/2023
Date



SISU LAND SURVEYING
2580 Christian Dr.
Chaska, MN 55318
612-418-6828

JOB NO.: 202209

INFILTRATION TRENCH DETAILS

INFILTRATION TRENCH DESIGN

Proposed increase in impervious surface = 537 sq. ft.
Volume reduction will be 1" over increase in impervious surface = 537 * 1/12 = 45 cubic feet.
Trench media is 1.5" washed rock, assume 40% void space
Minimum excavated volume = 45/0.4 = 113 cubic feet.
Proposed trench is 15' long X 4' wide X 3' deep = 180 cubic feet = 72 cubic feet void space

SITE SOILS

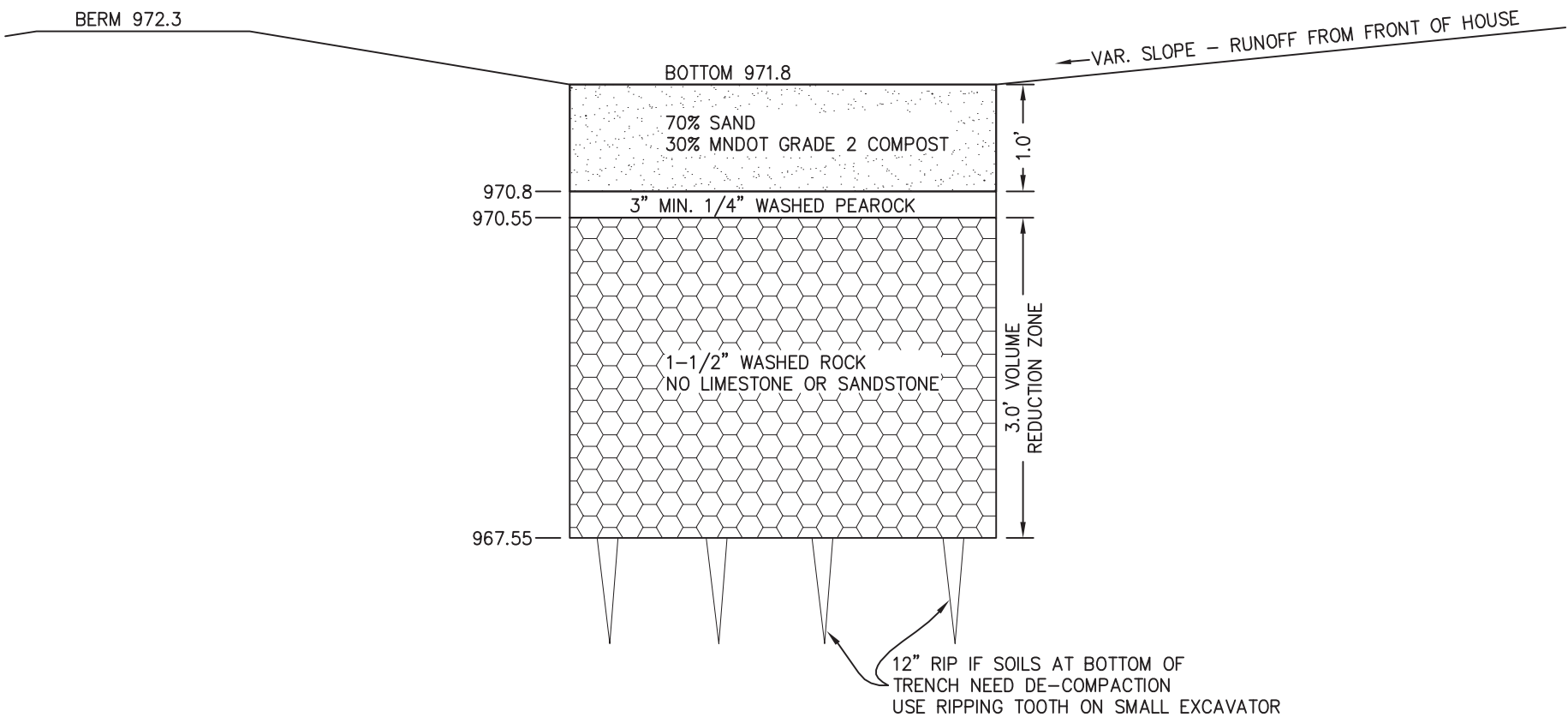
Soils are mapped as Essexville Sandy Loams. Per the Mn Stormwater Manual, the soils are suitable for infiltration and would have an design infiltration rate of 0.8 in/hr. No soil borings have been performed.

PLANTING/STABILIZATION

The top 12" of the infiltration basin will be a planting media consisting of 70% washed sand and 30% Grade 2 Compost. The infiltration basin will be seeded with MnDOT 33-261 seed mix and stabilized with Cat. 20 rolled erosion product, natural netting. Plantings and mulch may be substituted per a landscaping plan prepared by others.

CONSTRUCTION

- Construct the infiltration basin after completion of the house and final grading.
- Rip bottom of infiltration basin to a depth of 12" prior to placing the rock if necessary
- Place compost log around perimeter of infiltration trench immediately after seeding and stabilization.



INFILTRATION TRENCH SECTION

REVISED 08/04/2023 REDUCED IMPERVIOUS

CERTIFICATION

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

Curt Kallio

Curtiss J. Kallio, Lic. No. 26909

8/4/2023

Date



SISU LAND SURVEYING

2580 Christian Dr.
Chaska, MN 55318
612-418-6828

JOB NO.: 202209







REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023				
Item Name:		Winter Maintenance Policy Update				
Originating Department:		Administration				
Presented by:		Shane Fineran				
Previous Council Action (if any):						
Item Type (X only one):	Consent		Regular Session		Discussion Session	X
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>						
Adopt Resolution #2023-240, Approving Winter Maintenance Policy Updates						
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>						
Annually the City Council reviews updates and changes to the Winter Maintenance Policy prior to upcoming snow and ice control season. The proposed changes were reviewed by the City Council during work session on October 16th. Minor adjustments have been made to the policy document but significant changes are proposed for removal routes on streets, cul-de-sacs, sidewalks, and trails. Snow storage and hauling changes are proposed for the cul-de-sac areas in the southeast portion of the community. Currently the city has a little over 100 cul-de-sacs and in prior years approximately 16 of those received a different level of service as it relates to snow storage and removal. These cul-de-sacs located primarily in the southeast portion of the community in Interlaken and Interlaken Woods would have snow routed to the middle of cul-de-sacs which then had to be hauled at a later date to the city's snow storage area. In order to create equity and balanced level of service it is proposed that snow be pushed and stored into available right of way at the edge of cul-de-sacs in these areas. Windrowing of streets on the 200 block of Walnut St S and the 100 block of 4th St E is also proposed to be eliminated. Municipal code section 320.06 and 710.26 requires that property owners are responsible for the removal of snow and ice on sidewalks adjacent to their property within 12-24 hours of deposit. Previously the city had maintaining a significant larger system of sidewalk segments that fall by ordinance into the responsibility of adjacent property owners for snow removal. These segments were identified and discussed by the City Council at the October work session. Proposed is to delete the sidewalk segments on Exhibit C: Trails & Sidewalks in red. Affected property owners will be notified of this change. Additional discussion is needed on the areas identified in yellow of the exhibit. These are sidewalk segments that are directly back of the curb with no boulevard adjacent, resulting in no snow storage areas for snow removed from the adjacent street surface. These areas are generally in linking areas or are on routes in which streets are windrowed. Removal of these segments could create a burden on adjacent property owners with the amount, density, and heft of deposited snow from street surfaces. The city sent requests for proposals to 4 area towing companies for winter parking tow services for the 2023/2024 season. A change desired by staff for towing operations was that towed vehicles had to be stored at the contractors site and all financial transactions must be managed and handled by the contractor. The management of this process last year by city staff created an administrative burden on the city and resulted in a cumulative tow fee of \$368 for towed vehicle owners. R&V of Mayer returned the sole response to the RFP and will meet all of the contract requirements. The tow fee that will be paid by vehicle owners with one day storage will be \$175. The City has also budgeted for an additional equipment rental for the snow season. The piece of equipment is a loader which will assume downtown route work, large parking lots, and snow hauling functions. The City maintains a Shoule articulating hydraulic box plow with wings and rubber cutting edge. The plow is set-up to run CAT Fusion hitch. The existing loader in the fleet is on a fixed route with plow and blade and also operates the snow blowers to the additional rental piece of equipment provides additional capabilities and functionality to						

winter operations. Multiple quotes have been solicited similar to the CAT 950 that was rented in the 2022/2023 season. All of the non-CAT equipment will need either a different hitch and/or rental box plow. All loaders come with a bucket.

Vendor	Brand/Model	Price per Month	Hours per month	Excess hours
Ziegler CAT	CAT 950	\$9,940.00	100	\$63.00
Lano Equipment	Sany 405	\$4,400.00	130	\$55.00
United Rental	Case 821	\$5,500.00	160	negotiated
RDO	Komatsu WA320	\$4,500.00	350 for season	\$20.00

The City also sent solicitation for quotes for snow hauling services for the 2023/2024 season to 4 area contractors. The sole quote returned was from Henning Excavating which can provide up to 6 tandem axle dump trucks at a rate of \$150 per hour. Henning Excavating provided this service to the city last year and are familiar with our operations.

Attachments:

1. [2023-240_res_Accepting_Amended_Winter_Maintenance_Policy_Resolution.doc](#)
2. [2023-2024 WM Policy DRAFT.docx](#)
3. [ExhibitACollectorStreets2023-2024.pdf](#)
4. [ExhibitBSnowStorage2023-2024.pdf](#)
5. [ExhibitCTrailsSidewalks.pdf](#)
6. [ExhibitDWindrowStreets2023-2024.pdf](#)
7. [ExhibitFMaintenanceResponsibility2023-2024.pdf](#)
8. [ExhibitGAntiIcing2023-2024.pdf](#)
9. [RV Towing RFP.pdf](#)
10. [Snow Hauling.Hennings.RFQ 10.27.23.pdf](#)
11. [CAT 950 Winter Lease 10.20.2023pdf.pdf](#)
12. [Lano Sany Quote.pdf](#)
13. [United Rental Rental Reservation Quote](#)

<i>FINANCIAL IMPLICATIONS:</i>		<i>ADVISORY BOARD RECOMMENDATIONS:</i>	
Funding Sources & Uses:			
General Fund>Streets>Equipment Rental			
Budget Information:		Planning Commission	
	Budgeted	Parks and Recreation Board	
	Non Budgeted	Safari Island Advisory Board	
	Amendment Required	Other	

**CITY OF WACONIA
RESOLUTION NO. 2023-240**

**RESOLUTION AUTHORIZING APPROVAL & ACCEPTING AMENDED WINTER
MAINTENANCE POLICY FOR 2023-2024**

WHEREAS, updates to the current Winter Maintenance Policy previously approved on November 7th, 2016 and amended on October 5th, 2020 are necessary due to changes of multi-modal transportation systems, development and service level requirements; and

WHEREAS, updates within the Winter Maintenance Policy exist within the following sections or sub-sections as reflected in the memo; and

1. City Sidewalk and Trail Service Levels Exhibit C
2. Windrowed Streets Exhibit D
3. Minor updates to tables refining changes to Streets, Sidewalk, Trail and Parking Lot Priorities

WHEREAS, resources are budgeted to provide optimum and quality winter maintenance services within the Street Department General Fund.

WHEREAS, the city solicited proposals for towing services for the 2023/2024 winter season and received a qualified response from R&V Towing of Mayer, MN; and

WHEREAS, the city solicited quotes for snow hauling services for the 2023/2024 winter season and received qualified response from Henning Excavating of Hamburg, MN; and

WHEREAS, the city solicited quotes for a rental loader with bucket and hitch acquisition and received the low quote from Lano Equipment of Loretto, MN; and

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby authorizes approval accepting amended Winter Maintenance Policy for 2023/2024 winter season; and

BE IT FURTHER RESOLVED that the City Council of the City of Waconia approve the proposals and quotes from R&V Towing, Henning Excavating, and Lano Equipment for winter operations support services and equipment.

Adopted by the City Council of the City of Waconia this 6th day of November 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk



City of Waconia Winter Maintenance Policy

Public Services Department

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City of Waconia Winter Maintenance Policy

Adopted
Amended

November 7th, 2016
December 17, 2018
October 5th, 2020
November 21st, 2022

A. Introduction

It is among the responsibilities of the City of Waconia to manage snow and ice on City streets and public property under the City's jurisdiction. The purpose of this document is to set policies for how the City will fulfill this responsibility and to identify those City officials and employees who are authorized to set subordinate policies and make judgments in the course of carrying out snow and ice management activities.

Setting policies for snow and ice management involves evaluating and weighing a number of considerations, including the following:

1. Public safety. The safety of those traveling by motor vehicle, on foot and by other modes of transportation is of high priority. The goal of the City is to provide for surface conditions that are safe for travel in consideration of surrounding conditions and circumstances. Also, vehicles and personnel engaged in snow and ice management activity can increase risk to the public by virtue of their presence on public ways during times when travel conditions and vision are impaired.
2. Personnel safety. City personnel incur risk by their presence on public ways while managing snow and ice. The safety of City personnel as well is of the utmost importance.
3. Cost. City funds are limited and taxpayers require that they be spent cost-effectively. It is not possible to address all snow and ice issues simultaneously and completely. It is not practical to maintain equipment and personnel availability at a level that is sufficient for all circumstances.
4. Environment. Materials to maintain or improve surface traction contribute pollutants such as sand and chlorides to surface waters and to City stormwater basins and other

facilities, which in turn can increase the cost of maintaining those facilities. It is important not to use an excess of these materials. Chloride harms fish and other freshwater aquatic life and also negatively affects infrastructure, vehicles, plants, soil, pets, and wildlife, as well as impairs groundwater and drinking water supplies. Once in the water, chloride becomes a permanent pollutant and continues to accumulate in the environment over time. The data show that salt concentrations are increasing impairments to both surface waters and groundwater across the state.

5. Priority setting to optimize outcomes. Because consideration must be given to all factors, it is necessary to set priorities for snow and ice management activities. Considerations include, though are not limited to, maintenance area classification and vehicle use level, need for emergency vehicle access, areas of known safety risk, reported conditions, costs, and impact on the environment.

6. Management/professional/technical judgment. Policies and practices rest on management, professional, and technical knowledge, on prevailing weather and travel conditions and on other circumstances that winter maintenance professionals encounter. As to important policy elements, the City Council cannot state a policy but instead must delegate the authority to establish and adjust the policy to the professional judgment of appropriate City personnel.

7. Need for adaptability. Particularly with respect to effectiveness, cost and environmental consequences, snow and ice management is a realm of innovation. It is important that the City policy allow for personnel to maintain awareness of developments and allow for practices to be adjusted as appropriate. The public must practice due care given the continuously changing hazards presented by natural snow and ice concerns

The policies stated in this document, as well as any delegations of authority to set subordinate policies, rest on an assessment and balancing of these considerations. It is not possible or practicable for snow and ice to be fully removed from all surfaces or prevented from accumulating on surfaces. The City encourages and expects that City residents and other members of the traveling public will at all times conduct their activities mindful of conditions, hazards, and what is necessary to remain safe.

B. Snow and Ice Management Priorities

The City differentiates among maintenance areas based on a variety of factors, including traffic volumes, its Downtown Business District, Commercial & Industrial Districts, Public Institutions, and Public Facilities. The established City priority is as follows:

Roadway and Parking Lot Classification Service Levels

Classification	Target Regain Time	Lane Description
Residential Streets	4-8 hours	The goal of the jurisdiction is to achieve driving lanes that are as free of snow and ice as reasonably possible in a northern climate. (See Below)
Alley Service Areas	5-10 hours	
Public Parking lots for non-motorized travel	9-36 hours	

- Drivers should take due care when driving on snow and ice surfaces, including reducing their speed. Jurisdictions will log the date and time when a satisfactory road condition is obtained.
- Exhibit A provides listing of Streets of Higher Priority
- Exhibit B provides listings of Parking Lots
- Major Storms or Blizzards will require additional response time based upon its status or arrival.

City Sidewalk and Trail Service Levels

Classification	Target Regain Time	Functional Description
High Volume Sidewalk and Trail Segments	Day One	School, Commercial and Industrial Zones
Medium & Low Volume Sidewalk and Trail Segments	Day Two	Park sidewalks and trails non-linking exceptions

- Designated sidewalks and trails detailed above are cleared of snow and treated to meet the expectations within this document.
- Designated sidewalks and trails are normally plowed, blown, or swept. The method of snow removal depends on the amount and type of snowfall.
- Designated sidewalks and trails will be cleared as thoroughly as possible but need not be cleared of all snow or ice, nor maintained to bare pavement.
- Exhibit C provides mapping of Day One and Day Two descriptions.
- Major Storms or Blizzards will require additional response time based upon its status or arrival.

The City will also consider localized safety concerns, reported hazard conditions and other relevant information in adjusting priorities. The City, Public Services Director, or delegated authority has discretion to direct the resources contained in this Policy, and those directives set by the City Administrator or City Council. The City Public Services Director, or delegated authority directs resources and adjusts priorities during an event with due attention to the

considerations listed in Section A, above. Within the policies and directives set by the City Administrator or City Council, operations personnel may adjust their activity as well to address safety concerns, improve effectiveness, reduce costs, and limit environmental impacts. Section A, paragraph 1, is a significant operational consideration for Cities when making such adjustments.

C. Training

It is important and required by the Minnesota Pollution Control Agency that personnel involved in snow and ice management receive appropriate training to inform their operational capacities and the judgment that they must exercise in performing their responsibilities. The City Public Services Director is delegated the authority to determine and provide for appropriate training and tasked to inform the City Administrator and City Council of training funding needs during budgeting. The Administrator will consider training for police, emergency response and other City personnel who may not have specific responsibilities for snow and ice management but whose awareness and coordination is important to the City's efforts.

The City will document, or require documentation of, all training that it requires or conducts.

D. Delegations of Authority

Authority with respect to snow and ice management decisions is delegated as follows:

1. City Public Services Director or delegated authority. The City Public Services Director or delegated authority will exercise general oversight of snow and ice management activities and will make recommendations to the City Administrator and City Council on staffing, purchases and funding as a part of annual budgeting. The Public Services Director or delegated authority will exercise responsibility with respect to personnel training as indicated in Section C, above.

The Public Services Director or delegated authority will establish procedures for reports mandatory and non-mandatory on snow and ice conditions from city personnel or the public to be documented and routed to appropriate city personnel so that such reports inform snow and ice management activities. Operators will consider how best to resolve snow and ice management complaints, pursuant to the following City Policy:

2. Resident Response Procedures. Concerns or questions regarding snow and ice control or damage shall be taken during normal working hours and handled in accordance with the following items. It should be understood that complaint responses are to ensure that

the provisions of this policy have been fulfilled and that all residents of the City have been treated uniformly. It is the City's intention to log all complaints and upgrade this policy as necessary in consideration of the constraints of our resources. In the event of people registering a complaint, the Public Services Director, or his delegated authority, shall make on site visits to the indication of the complaint, if the complaint is such that a site visitation is indicated.

The City Administrator or delegated authority may enter into contracts for snow and ice management services or may recommend such contracts to the City Council, in accordance with City policy. All contracts will provide the following:

- a. All personnel performing the contract on any public maintenance area on behalf of the contracting party are trained to a minimum level approved by the City
- b. The contracting party will perform the work in accordance with all applicable City policies and directives, copies of which will be provided to the contracting party.
- c. The contracting party will be insured for general and automotive liability to the same limits and under the same standard conditions as in other City contracts, or to such other limits and under such other conditions as the City Attorney may advise.
- d. The contracting party will perform all work with due care and will indemnify the City and hold it harmless for its negligent and willful acts and omissions.

2. City Public Services Director or delegated authority. The City Public Services Director or delegated authority is authorized to establish subordinate policies and directives with respect to the following:

- a. Adjustments to snow and ice management priorities as indicated in Section B, above.
- b. Protocols and directives concerning the initiation and cessation of snow and ice management activities. Cessation protocols and directives will consider conditions that endanger employee or equipment safety, or that cause management activities to be ineffective.
- c. Protocols and practices for snow plowing and other operations, including snow storage. In determining snow storage locations and conditions, the Public Services Director or delegated authority will consider the debris and pollutant load held within stored snow and the potential water pollution impact of snowmelt within surface runoff. Snow storage locations will be monitored monthly and

documented for inconsistencies in meeting MPCA requirements. Sites utilized for snow storage will be cleaned and maintained to its original condition after each season.

d. Protocols for application of sand, salt and other means to preserve/reestablish traction. The Public Services Director or delegated authority will consider safety, environmental, and cost concerns, will maintain City awareness of best practices and innovations, and in his or her judgment will adjust protocols in accordance with such practices and innovations.

In making the judgments underlying these actions, the City Public Services Director or delegated authority will give due attention to the considerations listed in Section A, above. The City Public Services Director or delegated authority should consider providing for awareness of best practices, including those contained in the Winter Parking Lot and Sidewalk Maintenance Manual (MPCA, 2015) and the Minnesota Snow and Ice Control Field Handbook for Snowplow Operators (Minnesota Local Road Research Board, 2012), as they may be updated, and to provide for incorporation of best practices as appropriate.

Until such time as applicable policies and directives are established, the City Public Services Director or delegated authority will direct operations in his or her best judgment and with attention to the considerations listed in Section A, above.

3. Operators. City personnel engaged in snow and ice management operations are authorized to adjust activities in accordance with Section B, above. Such personnel, in their judgment, also may adjust plowing and other operational methods and may implement hazard warnings, consistent with the policies and directives set by the City Public Services Director or delegated authority. Operators are to use professional judgment and discretion to determine the best course of action to complete snow and ice management responsibilities under the circumstances, considering public and driver safety.

E. Operational Framework

1. Commencement of Operations. Anti-icing, or use of liquids applied to street, trails, and sidewalks may occur in advance of snow fall. These products assist in preventing the bond of snow to said surfaces and are proven to reduce operational cost and environmental impacts to our watersheds. Snow plowing and/or ice control operations shall commence under the direction of the Public Services Director or his delegated authority based upon the following criteria:

- a. Forecasted Weather, Pavement, and Air temperatures affecting Service Level Requirements
- b. Anti-icing operations may occur 24 hours in advance of an approaching storm
- c. Measurable snow accumulations, with continual snow fall, warrants commencement of removal operations.
- d. Drifting of snow may warrant commencement of partial or full operation, depending upon conditions.
- e. Icing of pavements may also warrant partial or full operations depending on extent and conditions.

2. Documentation. The Public Services Director or his delegated authority as required by the City MS4 Policy will document control practices, decisions, and electronic records carrying out this Policy. Such records will include weather conditions, pavement temperatures, amount of precipitation; snow, or ice, use of material and equipment, time of completion, and personnel providing service.

3. Emergency Situations. The City will dispatch operators and equipment as soon as possible to the routes required by emergency vehicles – Fire, Medical, Police – responding to an emergency situation within the jurisdiction of the City. The City will plow private property only if emergency vehicles require access.

4. Damage to Personal Property. Property Owner's may have Personal Property located within the City Right of Way system. **(Please Note Below Regarding Personal Property)** Permitted use includes Mailboxes. However, said mailboxes must be installed in such a manner and in good condition to provide access by the United States Postal Service and provide for Public Service snow removal equipment to pass-by. Newspaper boxes installed under mailboxes in most cases do not allow for snow removal equipment to pass under and can cause an indirect hit to the mailbox. See Exhibit E detailing a properly established mailbox. Property owners assume all risk and responsibilities for replacement of mailboxes and supports that are constructed of materials such as but not limited to brick and mortar, stone aggregate, ornamental railings, or antique type supports. The City assumes a value of no more than \$50.00 for mailboxes of this type, which are hit by a City snow plow.

The City will install replacement parts or a mailbox of standard size non-decorative type. The City will make temporary repairs to mailboxes for mail delivery if the City plow actually hits the mailbox. Weather and staffing dictate the completion of repairs.

The City will bear the cost of repairs of a damaged mailbox ONLY if it is a result of City Equipment actually hitting the mailbox, not from the weight of the snow being discharged from the plow.

The City will assume no responsibility for damage to underground irrigation systems, private lighting systems, trees, shrubs, specialty grasses, rocks, fences, retaining walls or similar landscaping installed in the City controlled Right of Way or easements.

5. Boulevard Sod. The City when it receives a complaint, record the location of alleged sod damage caused by contact with City Equipment. The extent of the damage will be reviewed and verified by Public Service staff. If the sod is determined to be of repair, staff will conduct the following; 1.) Make record of the site and maintain a list of confirmed areas. 2.) Schedule top soil and seeding in the spring. **The City does not conduct repairs with sod.** 3.) Public Service staff will water the effective area one-time; it will then become the resident's responsibility to water and maintain the area. The costs of top soil and seed are borne by the City.

6. Parking Restrictions. On street parking is not compatible with efficient snowplowing operations. Vehicles left parked and unattended on the street for extended periods of time create problems for snowplows as well as safety problems with packed snow and ice around vehicles. Ticketing and/or towing these vehicles may occur in conformance with City Ordinance. City Ordinance 634.01 Winter Parking

Subd. 1. Winter Parking. No person shall park or leave standing any vehicle, whether attended or unattended, upon any avenue, street, or highway within the City between the hours of 12:00 a.m. and 8:00 a.m. from November 1 through April 1. **Exceptions to Early and Late snow events outside of the listed Winter Parking Restrictions, (November 1 through April 1) the Public Services Director, or their delegated has the right to issue a "Snow Emergency" making Winter Parking effective upon issuance. Such issuance will be messaged via various means of public communication, etc. Radio, TV, or Social Communications**

Subd. 2 Exceptions to Winter Parking System. The winter parking system described in Subd. 1, above, shall not apply and, instead there shall be no parking whatsoever between the hours of 2:00 a.m. and 6:00 a.m. from November 1 through April 1 of each winter season, and held reflective of a "Snow Emergency" situation on the following portions of the following streets.

- Main Street between Pine and Maple Streets,
- First Street between Spruce and Maple Streets,
- Second Street between Vine and Elm Streets,
- Vine Street between Second and the alley running between Lake and Main Streets,
- Olive Street between Third and the alley between Lake Street and Main Streets,
- Maple Street between First and Main Streets,
- Elm Street between Third and Main Streets,
- Pine Street south of Minnesota Trunk Highway No. 5,
- Eighth Street,
- Industrial Boulevard,
- Industrial Boulevard West,
- Mill Lane,
- East Frontage Road.

Subd. 3 Handicapped Vehicles. Any vehicle displaying a valid temporary or permanent handicapped identification certificate or insignia issued by the Minnesota Department of Public Safety pursuant to Minnesota Statutes Section 169.345 or any other valid temporary or permanent handicap identification certificate or insignia issued by another state within the United States shall be exempt from the winter parking restrictions set forth in Subd. 1, above, but shall be subject to all other parking regulations set forth in this Chapter.

Subd. 4 Parking Lots. Parking in public parking lots in the City shall be prohibited from parking between 2:00 a.m. and 6:00 a.m., held to the same standards as the Public Streets. Parking shall be allowed once the snow has been completely cleared from the parking lot.

Subd. 5. Alleys, Sidewalks, and Public Grounds. No vehicle shall be parked on any public alley for more than fifteen minutes at any time during the period from November 1 to April 1 of each winter season. No vehicle shall ever be parked on any sidewalk or public ground at any time.

Subd. 6 Penalty. Any person, firm, or corporation who shall violate the provisions of this Section shall be subject to having the vehicle ticketed by a Police Officer or Carver County Sheriff's Deputy and removed with the cost of such moving and storage to be paid by the owner thereof pursuant to Section 630.05 of this Code.

Additionally, after large accumulations of snow, the City may find it advisable to prescribe parking restrictions to facilitate snowplowing and clean-up operations.

7. Deviation from Policy. If a person with delegated authority determines deviation from this Policy to be in the best interest of the City, or that a change is needed, the deviation will be documented. Documentation includes identifying: the cause, why the response was necessary, and how long the deviation will be in effect.

8. Review and Modification of Policy. Said Winter Maintenance Policy is reviewed annually for updates and provided for approval by the City Council of Waconia.

F. Assuming Responsibility for Private Roadways, Parking Areas, Sidewalks, and Trails

The City is not responsible for snow and ice management on any roadway or parking area not owned by or dedicated to the City, except as may be provided in a legally binding, written acceptance of that responsibility in the context of a development approval or otherwise. Snow removal from Private Roadways, Parking Areas, Sidewalks, Trails and Driveways should be discharged on-to Private Property. Discharging of snow from Private Property areas listed into a Street or across a Street may cause safety and liability issues. **Snow from Private Property must NOT be discharged onto public property.**

G. Coordination with Other Jurisdictions

The table below lists the jurisdiction responsible for facilities within the City's Corporate Boundaries.

Maintenance Area	Responsibility	Telephone No.
Trunk Highway Five	State of Minnesota	651-296-3000
Trunk Highway 284	State of Minnesota	651-296-3000
County Highway 10	Carver County	952-466-5200
County Highway 59	Carver County	952-466-5200
County Highway 92	Carver County	952-466-5200

The City will coordinate with neighboring or regional jurisdictions as warranted to realize better management outcomes, cost savings or environmental benefits.

No Rights Created

This policy is for internal use only in order to specify the policies and distribution of authority for snow and ice management. The policy is for the benefit of serving the general public and not for the benefit of any individual or specific group of individuals. It is not intended to and does not create any right or expectation in any third party. The City Council may amend this policy or make exceptions to it as it deems appropriate.

Disclaimer

The City will begin snow and ice management as soon as reasonably possible. Cold, wind, visibility, equipment failure or disability, rapid snow and ice accumulation, and/or other unforeseen conditions or emergencies may prevent safe or effective management and cause delays in management operations.

Distribution

This policy will be distributed to the following:

City Council, Administration & City Hall,

The City of Waconia Winter Maintenance Policy is available on the City Website under the Public Service heading and policies.

Exhibit A Collector Streets

Priority Level #1	
Street	Point to Point
Maple St.	TH 5 to Lake St.
Olive St.	TH 5 to Lake St.
Elm St.	2 nd St. E to Lake Access
Pine St.	2 nd St. E to Lake St.
Main St.	Walnut St. to Hwy 5
Vista Blvd.	Main St. to Yellowstone Trl
Yellowstone Trail.	Main St. to Vista Blvd.
1 st St.	Spruce Walnut
2 nd St.	Olive St. to Pine St.
Vine St.	3 rd St. to Lake St.
4 th St W	Elm St to Maple
Birch St.	TH 5 to 2 nd St. and Main St. to Lake St.
Lake St.	Walnut St. to Birch St.
Cedar St.	to Cedar Point Park

Elm St. N	Lake St. to End
Waconia Parkway North	Main St. to Co. Rd. 10
Waconia Parkway South	TH 5 to Co. Rd. 10
Walnut St.	Lake St. to 3rd. St.
3 rd /Burandt Blvd	Olive St. to Farmline Rd.
Farmline Rd.	Waconia Parkway South to Burandt Blvd.
Oak Ave	Waconia Parkway South to S. City Limits
Community Dr.	Oak Ave to Co. Rd. 10
94th St.	Co. Rd. 10 to High School Access
Victor Ct.	94 th St. to Cul-de-sac
Strong Dr.	TH 5 to Waconia Parkway South
East Frontage Rd.	TH 5 to Hartmann Dr.
Sparrow Rd.	Oak Ave. to Co. Rd. 10
E. 8th St./ East Frontage	TH 284 to Hart
E. Frontage Rd.	TH 5 to East Frontage rd.
Marketplace Dr.	Highway 10 to Marketplace Rd.
Cherry St.	TH 5 to Maple St.
Cherry St.	TH 5 to 10th St.
Depot Dr.	Hwy 5 to Cul-de-sac
Tenth Street	Main Street Ext. to Co. Rd. 10
Airport Road	Main Street Ext. to East Corp. Limits

Priority Level #2	
Elm St.	Hwy 5 to 2 nd St. E
Pine St	Hwy 5 to 2 nd St. E
Beach Rd.	Yellowstone Trl to Cul-de-sacs East & West

1 st St.	Birch St. to Spruce
Birch St.	2 nd St. to Main St.
Willow Place	TH 5 to 5th St.
5th St.	Willow Place to Olive St.
Wildflower Way	Waconia Parkway South to Foxglove Terrace
Burandt Blvd	Farmline Rd. to Foxglove Terrace
Foxglove Terrace	Burandt Blvd. to Wildflower Way
Sparrow Rd.	Oak Ave. to Oak Ave.
Oak Pointe Dr.	Sparrow Road to TH 5
Fountain Ln.	Sparrow Rd. to Silver St.
Sierra Parkway	TH 284 to Fountain Lane
Sierra Parkway	TH 284 to Ravencroft Rd.
Starlight Dr.	Sierra Parkway to Silver St.
Ravencroft Rd	Sparrow Rd. to Lenox Dr.
Lenox Dr.	Sparrow Rd to Ravencroft Rd.
Skybrooke Ave	Sparrow Rd. to Fieldgate Rd.
Fieldgate Rd.	Skybrooke Ave to Pinehill Blvd.
Pinehill Blvd.	Fieldgate Rd. to 10th Street
8th Street	10th Street to S. Pine St.
S. Pine St	East Frontage Rd. S. End to E. 8th St.
Hartman Way	TH 5 to 10th St.
Marketplace Dr.	Marketplace Rd to Mill Rd.
Marketplace Rd.	TH 5 to Marketplace Dr.
Industrial Blvd W.	Highway 10 to Mill Rd.
Industrial Blvd.	Highway 10 to Hwy 284
Cherry Drive	Cherry Street to Cul-de-sac

Fischer Way	Hwy 5 to 10 th St.
Interlaken Parkway	Highway 10 to Cul-de-sac
Interlaken Crossing	Highway 59 to Airport Road
Somerwood Dr.	Highway 10 to Airport Rd.

Exhibit B Public Parking Lots

LOT #1	236 1 st Street West
LOT #2	17 1 st Street West
LOT #3	201 Vine Street South
LOT #4	200 2 nd Street West
LOT #5	116 1 st Street West
LOT #6	141 Main Street West- Upper Ramp
LOT #7	141 Main Street West- Lower Ramp
LOT #8	26 Maple Street South
LOT #9	130 Cedar Street North
LOT #10	1200 Oak Avenue
LOT #11	1600 Community Drive
Lot #12	83 TH 5

Exhibit C Sidewalks and Trails Plowing Plan

	Type	Street/Area	To/From
	Sidewalk	101 1 st Street West	(South Side)
	Sidewalk	101 Main Street East	(City Square Park)
	Trail	1200 Oak Avenue	(Brook Peterson Park)
	Trail	130 Cedar Street North	(Cedar Point Park)
	Sidewalk	1 1 st Street West	Elm Street (North & East Side)
	Sidewalk	1 st Street	Main Street
	Sidewalk	201 Vine Street South	City Hall/Library
	Sidewalk	225 1 st Street West	(East Side)
	Sidewalk	26 Maple Street South	Fire Station
	Sidewalk	Somerwood Drive	Airport Road to Oakmont Lane
	Sidewalk	Lennox Drive	Sparrow Road to Park Property
	Sidewalk	Airport Road	Main Street/CSAH 59 to Firesteed Ridge Road
	Sidewalk	Sparrow Road	Lenox Drive to End
	Sidewalk	10 th Street	TH 284 to Mill Road
	Trail	Burandt Boulevard	Foxglove Terrace to Walnut Street
	Trail	Wildflower Way	Waconia Parkway S. to Foxglove Terr.
	Trail	Community Drive	Oak Avenue- Highway 10
	Trail	Waconia Parkway S.	Hwy 10 to TH 5
	Sidewalk	Waconia Parkway S.	TH 5 to Oak Ave.
	Trail	Highway 284	Sierra Parkway to Highway 5
	Trail	Creekside Drive	Oak Avenue

Trail	Farm Line Road	Burandt Boulevard to Waconia Parkway South
Trail	Highway 10	Highway 284 to Ravenwood Drive
Trail	TH 5	Strong Drive to South-Olive Street
Trail	TH 5	Oak Avenue to TH 284
Trail	Mill Road	TH 5 to Industrial Boulevard
Trail	Main Street	TH 5 to Birch Street
Trail	Main Street/CSAH 59	TH 5 to Highway 10
Trail	Oak Avenue	Waconia Parkway South to Sparrow Road (West Side)
Trail	Oak Avenue	Waconia Parkway South to TH 5 (East Side)
Trail	Sparrow Road	Lenox Drive to Highway 10
Trail	Interlaken Crossing	Airport Road to Main Street/CSAH 59
Tail	Highway 10	Main Street/CSAH 59 to Somerwood Drive
Trail	Sierra Parkway	TH 284 to Ravencroft Rd.
Trail	Waconia Parkway North	Scott Lane to Highway 10
Trail	Waconia Parkway South	TH 5- Oak Avenue
Trail	Highway 10	TH 5 to Sterling Rd.
Trail	1702 Ravencroft Road	Waterford Park
Trail	Brook Peterson Park	Community Drive- Baseball Parking Lot- Pond Circle Path

Exhibit C Sidewalks and Trails Plowing Plan Cont'd

	Type	Street/Area	To/From
	Trail	1150 Burandt Boulevard	(Pheasant Ridge Park)
	Trail	Highway 10	Waconia Parkway South to Sterling Road
	Tail	Sunset Avenue	Sunset to End
	Sidewalk	1200 Oak Avenue	(Brook Peterson Park)
	Trail	1205 Highway 284	(Fox Run Park)
	Trail	1270 Interlaken Parkway	(Interlaken Park)
	Trail	1300 Highway 284	(Wildhurst Park)
	Trail	Old Beach Lane & Connection	Main Street to County Park
	Trail	1401 Mockingbird Drive	(Bent Creek Park)
	Trail	1431 Sparrow Road	(Oakpointe Park)
	Trail	Interlaken Park	Interior Trails
	Sidewalk	East Frontage Rd.	Pine Street to TH 5 Access
	Sidewalk	Interlaken Parkway	Park Road Frontage
	Sidewalk	Interlaken Parkway	Reitz Lake Park Frontage
	Sidewalk	Airport Road	Main Street Ext. to Park Frontage
	Sidewalk & Trail	Somerwood Way	Somerwood Dr. to Interlaken Park
	Trail	1568 Woodlawn Circle	Park Point Road and Dead End
	Trail	1702 Ravencroft Road	(Waterford Park)

Trail	Mill Lane- Marketplace Drive	Industrial Boulevard West
Trail	Highway 92	Lakeshore Circle to End
Trail	Island View Road	Highway 92 to Maple Terrace
Trail	94 th Street	Highway 10 to Cul-de-sac
Tail	Vista Point Park	Beach Road to Old Beach Lane
Trail	Woodlawn Circle	Woodlawn Circle
Trail	Willowbrooke Lane	Woodlawn Circle

Exhibit C Blowing Trail & Sidewalk Segments

	Type	From	To
	Trail	TH 284; CSAH 10	Sparrow Road
	Trail	TH 5 ; Olive Street	Maple Street
	Trail	Cherry & 5 th Street	TH 5
	Sidewalk	Maple & 5 th Street	Cherry Street
	Sidewalk	Cherry & 5 th Street	TH 5
	Trail	Tenth Street; TH 284	Pinehill Boulevard
	Trail	Main Street; Yellowstone Trail	Old Beach Lane
	Sidewalk	Second Street; Maple Street	Walnut Street
	Sidewalk	Walnut Street; Third Street	First Street
	Sidewalk	Fountain Lane; Sparrow Rd.	1902 Fountain Lane
	Trail	Fountain Lane; Sparrow Road	1826 Fountain Lane

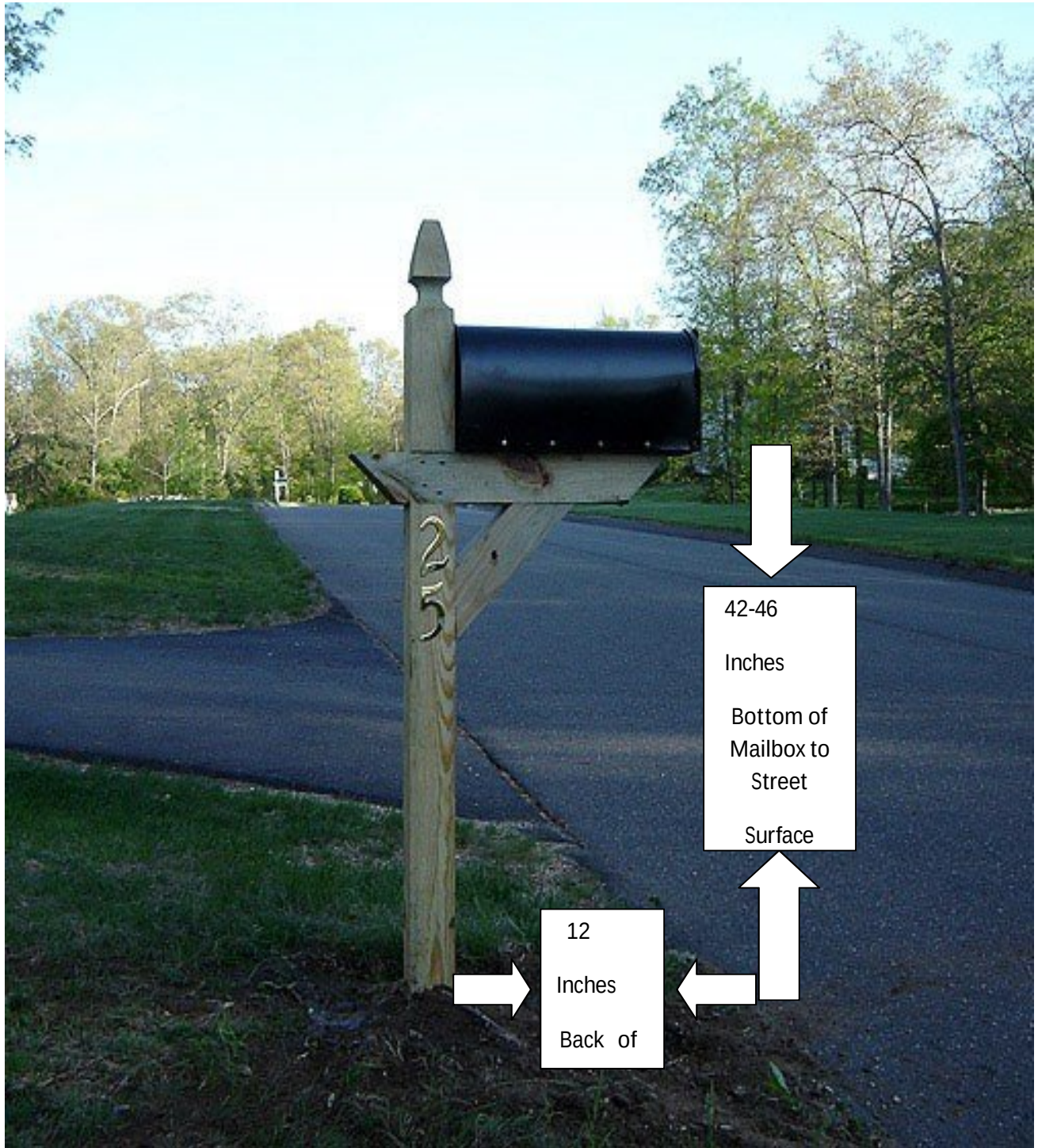
Truck Wing Trail Clearing Segments

	Type	From	To
	Trail	Burandt Blvd.; Kinder Drive	Cherrywood Lane
	Trail	Oak Avenue- Waconia Parkway South	Community Drive (East & West Side)

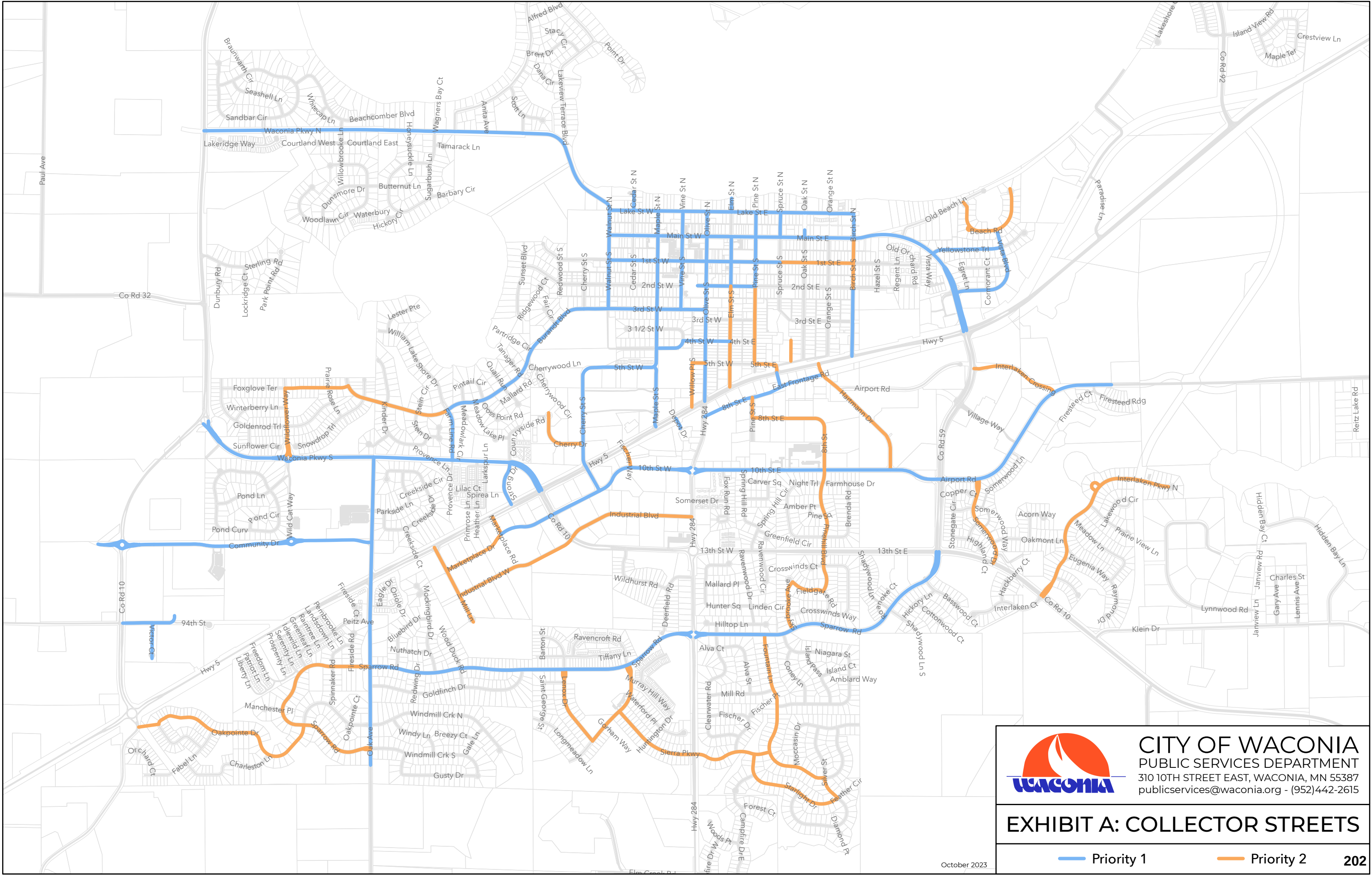
Exhibit D Wind Row Streets

Street	Day Activity	From	To	Number of Blocks
S. Pine Street	One	1 st Street	2 nd Street	1
Vine Street	One	Lake Street	Main Street	3
Spruce Street	One	1 st Street	2 nd Street	1
Walnut Street	Two	Lake Street	3 rd Street	4
Elm Street	One	Main Street	3 rd Street	3
2 nd Street	Two	Orange Street	Birch Street	1
Maple Street	Two	1 st Street	5 th Street	3.5
Maple Street	Two	5 th Street	TH Five	6
Olive Street	One	3 rd Street	Lake Street	4
1 st Street	One	Spruce Street	Maple Street	5
2 nd Street	Two	Spruce Street	Oak Street	1
4 th Street	One	Maple Street	Olive Street	2
2 nd Street	One	Pine Street	Olive Street	3
Main Street	One	Maple Street	Pine Street	1
Elm Street	One or Two	Fifth Street	TH Five	1
Fourth Street	One or Two	Elm Street	Olive Street	1
Cherry Street	Two	5 th Street	TH Five	2
5 th Street	Two	Cherry Street	Maple Street	1.5
Total				44.0

Exhibit E- Mailbox Installation Detail



CITY OF WACONIA MAILBOX INSTALLATION DETAIL





CITY OF WACONIA

PUBLIC SERVICES DEPARTMENT

310 10TH STREET EAST, WACONIA, MN 55387

publicservices@waconia.org - (952)442-2615

EXHIBIT A: COLLECTOR STREETS

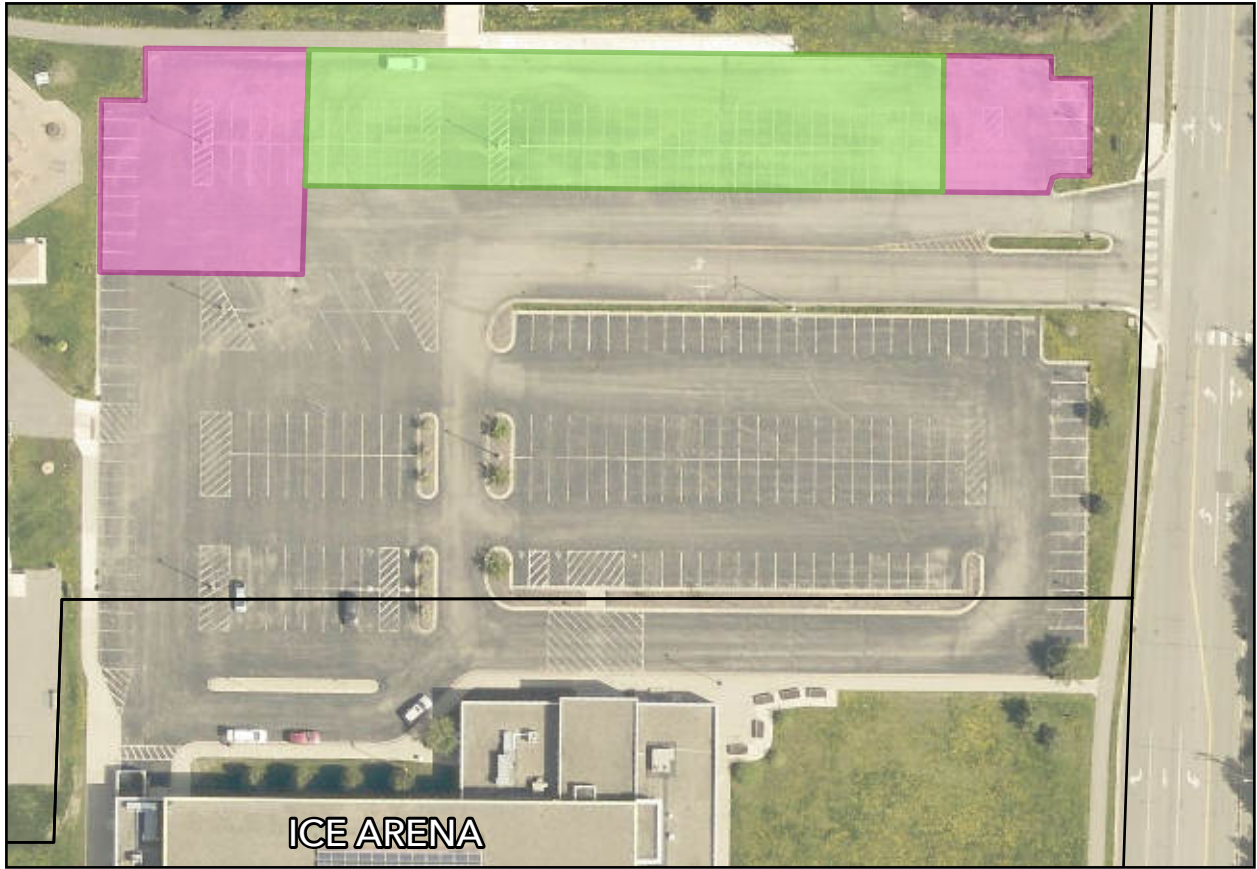


Priority 1



Priority 2

202



ICE ARENA

 PROGRAMMED STORAGE

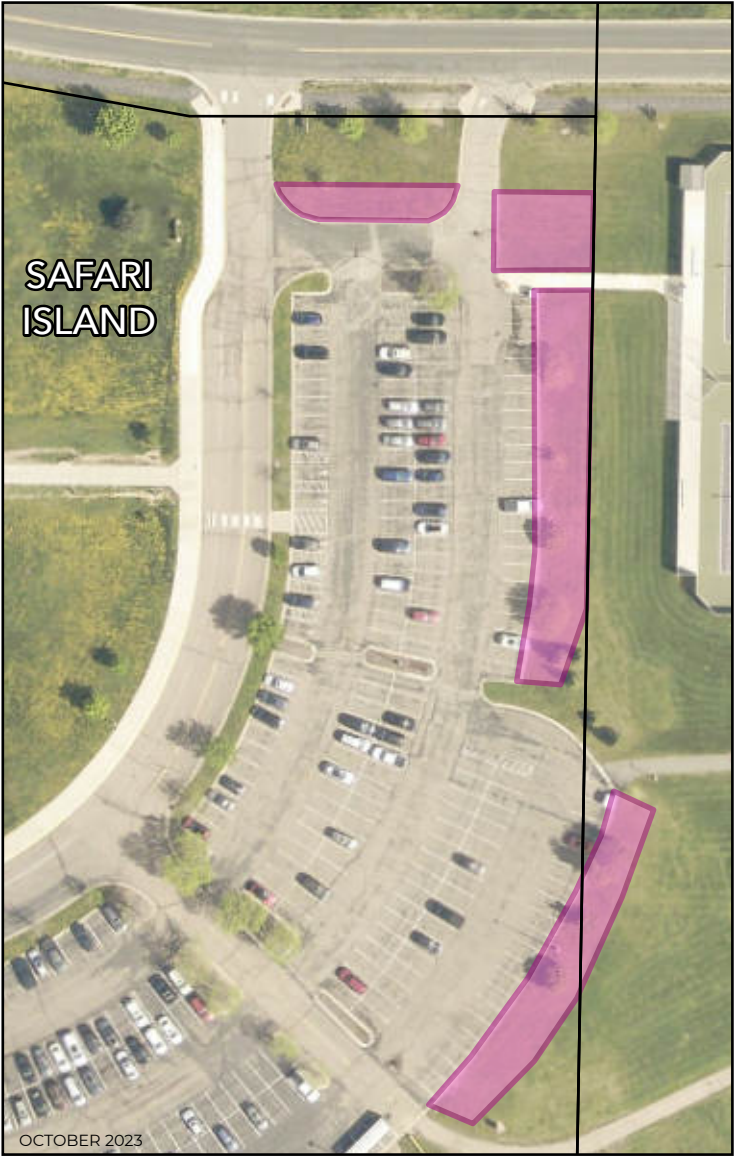
 SPRING STORAGE



CITY OF WACONIA
PUBLIC SERVICES DEPARTMENT
310 10TH STREET EAST, WACONIA, MN 55387
publicservices@waconia.org - (952)442-2615

SNOW STORAGE

EXHIBIT B: PUBLIC LOTS



SAFARI ISLAND

OCTOBER 2023

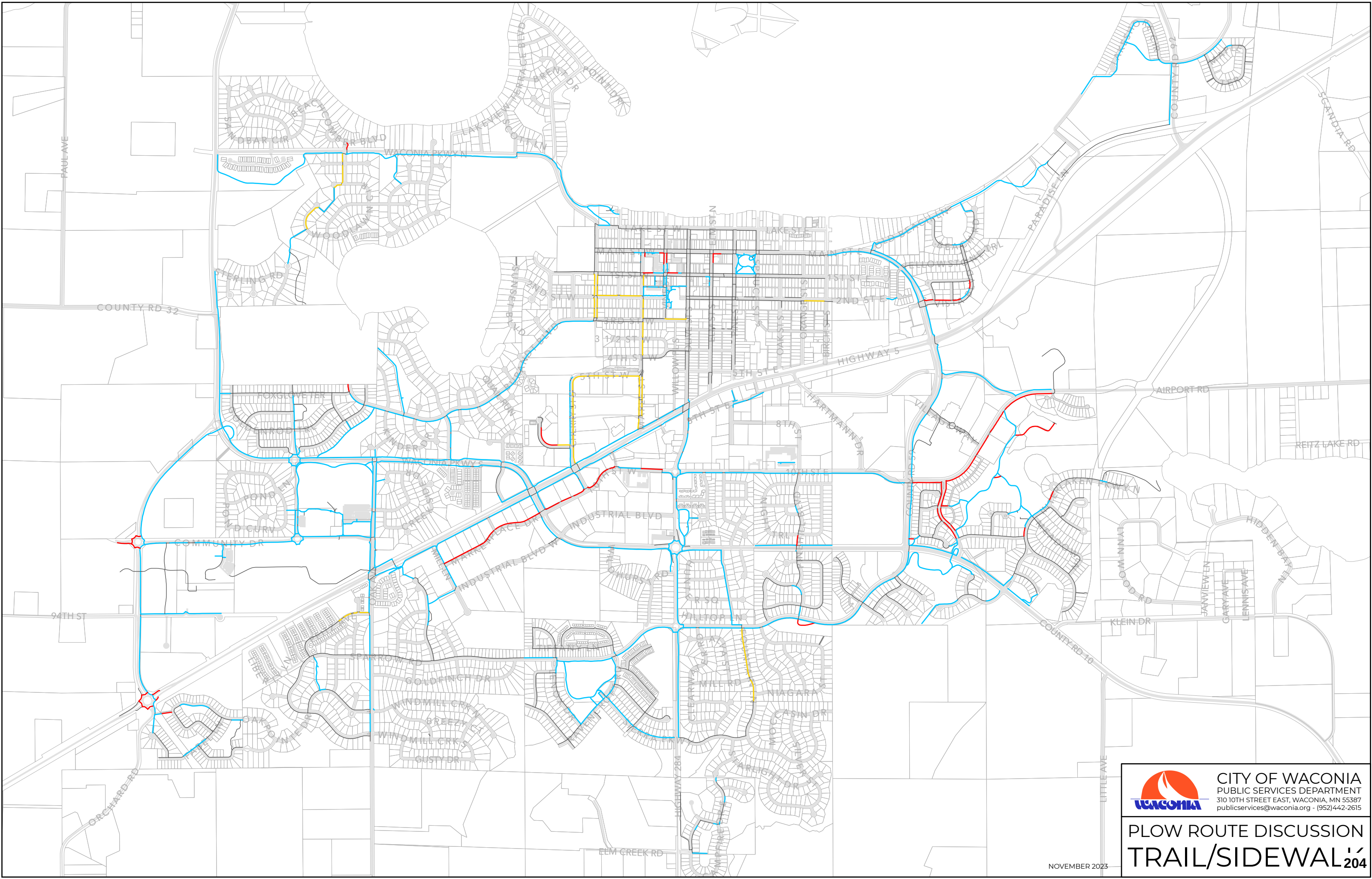


MARINA

LOT #1

LOT #5

FOUNTAIN PARK

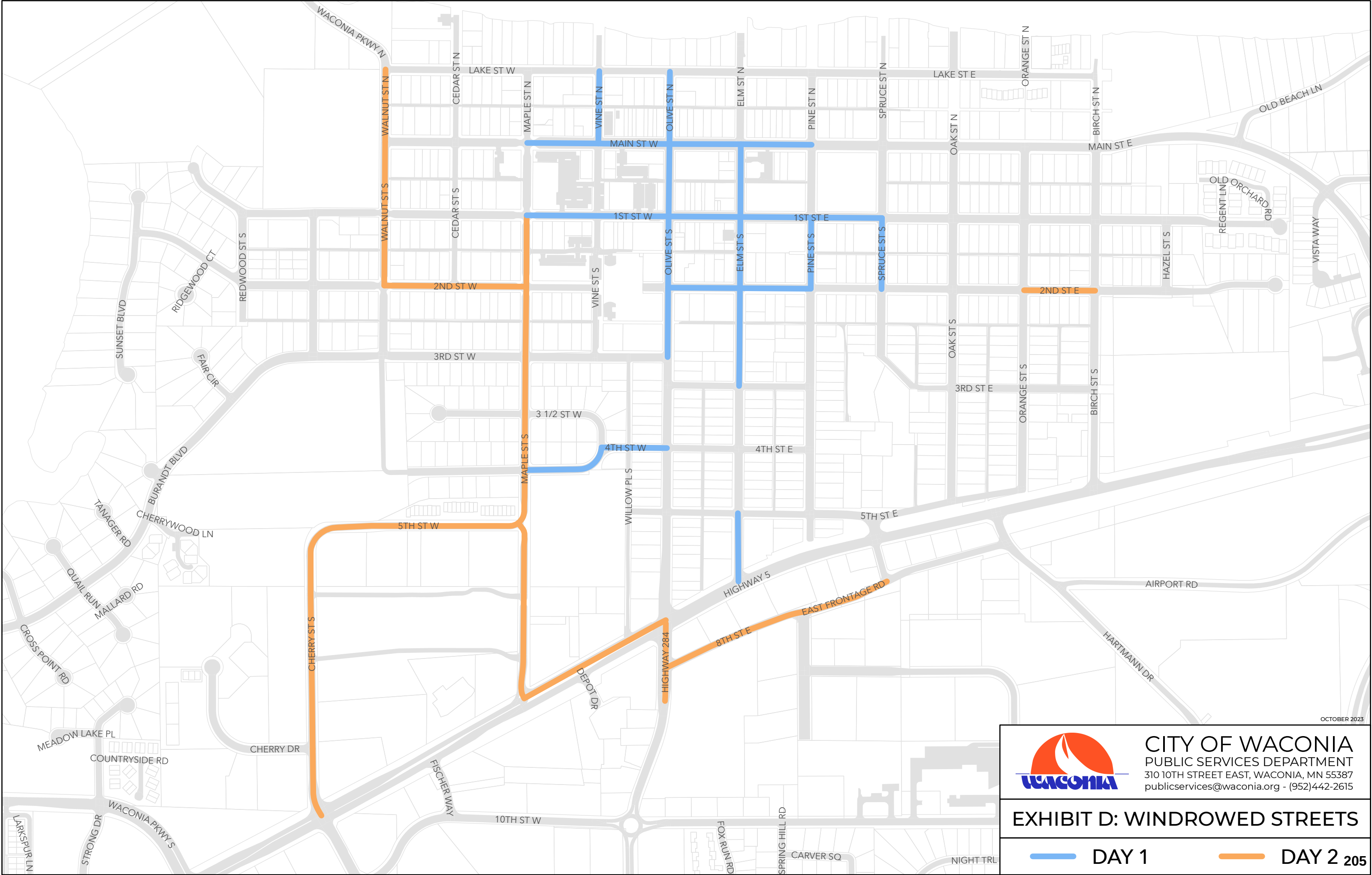




CITY OF WACONIA
PUBLIC SERVICES DEPARTMENT
310 10TH STREET EAST, WACONIA, MN 55387
publicservices@waconia.org - (952)442-2615

PLOW ROUTE DISCUSSION
TRAIL/SIDEWALK 2024

NOVEMBER 2023



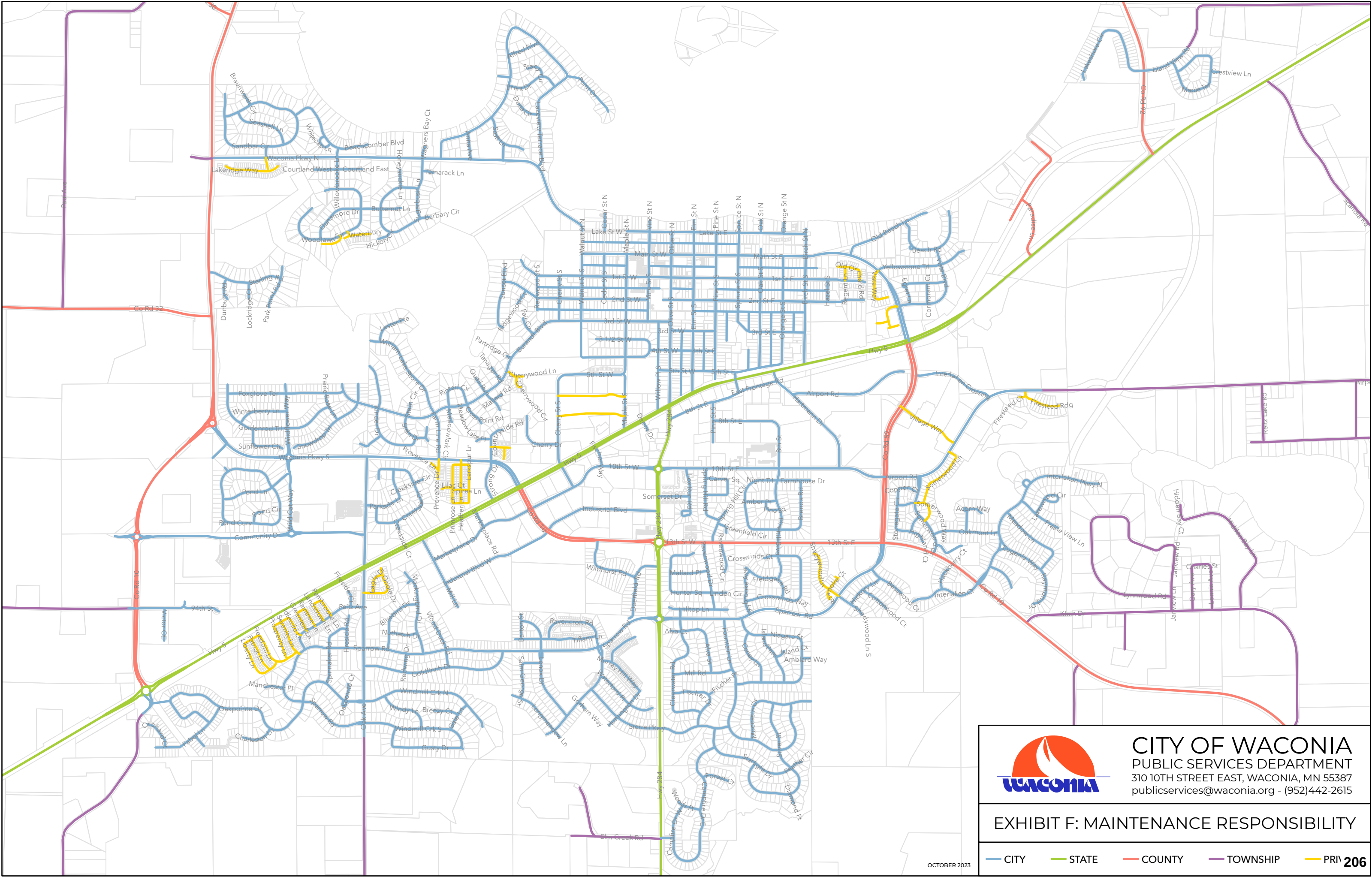
OCTOBER 2023



CITY OF WACONIA
PUBLIC SERVICES DEPARTMENT
310 10TH STREET EAST, WACONIA, MN 55387
publicservices@waconia.org - (952)442-2615

EXHIBIT D: WINDROWED STREETS

 DAY 1  DAY 2 ²⁰⁵





CITY OF WACONIA

PUBLIC SERVICES DEPARTMENT
310 10TH STREET EAST, WACONIA, MN 55387
publicservices@waconia.org - (952)442-2615

EXHIBIT F: MAINTENANCE RESPONSIBILITY

CITY

STATE

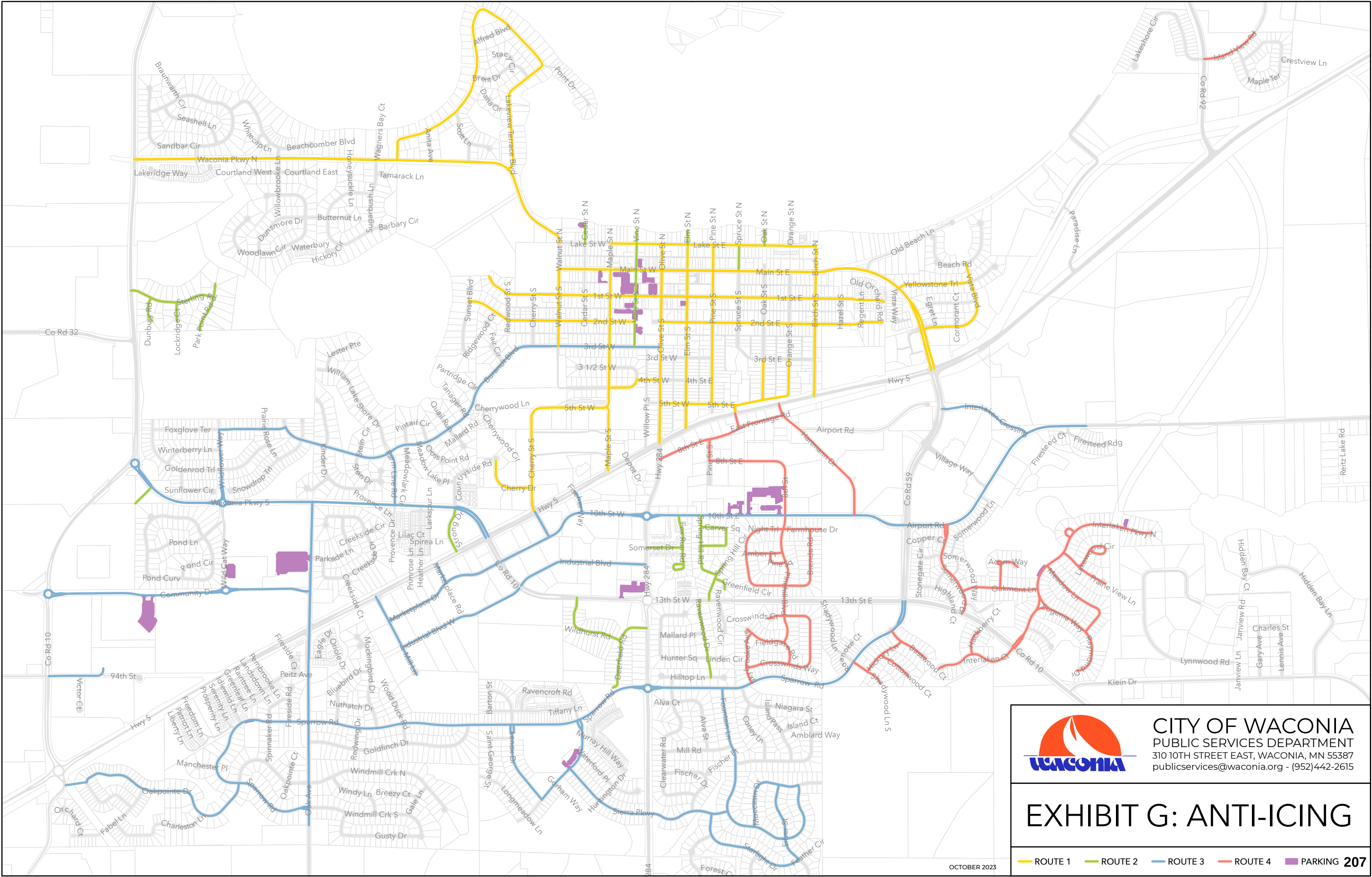
COUNTY

TOWNSHIP

PRIVATE

OCTOBER 2023

206





CITY OF WACONIA

PUBLIC SERVICES DEPARTMENT

310 10TH STREET EAST, WACONIA, MN 55387

publicservices@waconia.org - (952) 442-2615

EXHIBIT G: ANTI-ICING

ROUTE 1

ROUTE 2

ROUTE 3

ROUTE 4

PARKING

207

**CITY OF WACONIA,
MINNESOTA**

**REQUEST FOR PROPOSALS
FOR TOWING,
IMPOUNDING, AND
STORAGE OF MOTOR
VEHICLES**

Introduction

The City of Waconia, Minnesota, is seeking proposals from qualified and experienced firms to provide 24-hour towing, impounding, and storage of motor vehicles on an as needed and directed basis for the purpose of winter roadway plowing and snow storage. Services are requested for November 1, 2023 thru April 1, 2024.

Proposals:

It is the intent of the City of Waconia to award a contract to the Contractor who submits the proposal deemed to best meet the needs and requirements of the City.

Proposals must be received by 12:00 p.m. (noon) Wednesday, October 11, 2023.

Submit proposals to: **Towing Proposal
City of Waconia
201 Vine Street South
Waconia, MN 55387**

The City of Waconia retains the right to waive any informality or irregularity in any proposal received, and to accept the proposal, which in its judgment, is in its own best interest. The award of the contract will be based upon the evaluation criteria. The City of Waconia reserves the right to reject any and all proposals.

RFP Questions and Contact:

Questions relative to the RFP should be directed to: **Finance Director, Nicole Meyer
City Hall
201 Vine Street South
Waconia, MN 55387
(952) 442-3108
nmeyer@waconia.org**

Terms and Conditions:

The following terms and conditions detail the requirements to provide 24-hour motor vehicle towing, impounding and storage services for the City of Waconia on an as needed and directed basis. Such direction is to be by the City Administrator, City of Waconia Law Enforcement (as contracted with Carver County Sheriff's Department), City Public Service Staff or their authorized and legal representatives.

Equipment:

Contractor shall provide sufficient equipment for the operator of the towing service to be able to tow vehicles including but not limited to:

- A. Equipment capable of towing automobiles, light trucks, vans, utility vehicles, 4x4's, all-

terrain vehicles, commercial vehicles, heavy trucks, and any other vehicle, motorized or not and further equipped to control movement of the towed vehicle; and

- B. Trucks and equipment of sufficient quantity that allows the Contractor to meet the required response time regardless of season, time, date, or event; and

A listing of all equipment to be utilized shall be submitted with the proposal. Such listing shall show the make and model of all equipment available for use under this contract, along with size and all other pertinent information, such as specialized equipment not necessarily herein specified, but which may be a factor in performing effectively and efficiently.

All equipment to be used by the contractor under this contract shall be maintained in good repair and condition. The City reserves the right to inspect the equipment from time to time for the purpose of determining that equipment condition is in conformance with the terms and conditions of the specifications and the contract.

Personnel:

The Contractor performing under this contract shall assume all and full responsibility for the conduct of his/her employees. The Contractor guarantees that all of the employees performing under this contract will be adequately trained in their profession, will respond promptly to all calls, be clean and neat in appearance, use decent language, free of profanity, and treat the public courteously at all times.

Request for service from City of Waconia Staff must be given first priority by all dispatchers.

Drivers shall possess and carry a valid Minnesota driver's license commensurate with the truck they are operating and be proficient in the operation of such equipment. All drivers shall operate the Contractor's equipment in a safe and prudent manner, complying with all traffic laws.

Failing to meet any or all of the requirements of this section may result in cause for terminating the contract at any time as per the conditions specified for contract termination.

Licensing:

Contractor shall obtain and maintain in effect throughout this contract, all licenses, permits and certificates as required by the State of Minnesota, Carver County, and the City of Waconia for the operation of the service required to be performed by the Contractor under this contract. The Contractor shall operate and maintain its parking and storage facility in compliance with the terms of this contract and all State and City applicable laws, ordinances, rules, and regulations that are presently in effect or which may hereafter be adopted.

Storage Facilities:

To be considered for selection, all storage and parking lot facilities and all equipment used by the contractor under this contract must be located within a 20-mile radius of the city limits of the City of Waconia. The successful Contractor must demonstrate that their storage and parking lot facilities meet or are capable of meeting all the applicable State and local building code standards and municipal license and zoning requirements, including those relating to outdoor storage, screening, and landscaping of the City in which the facility is located. A site inspection may be part of the review process.

The Contractor will be solely responsible for loss or damage to any vehicle, including all equipment and contents, from the time direction is given by the authorized City representative turning the vehicle over to the Contractor or his Agent, until such time as the vehicle is legally released to the registered or actual owner or legal agent thereof.

Insurance:

Contractor shall obtain and maintain in effect throughout this contract liability, property damage and fire insurance which shall contain coverage in an amount not less than \$100,000 to any one person and not less than \$300,000 total in any one incident and not less than \$10,000 fire and property damage coverage.

Availability:

Contractor shall provide towing services 24 hours per day, November 1 through April 1. Contractor shall provide a telephone answering service 24 hours a day, seven days per week, for the purpose of receiving requests for service pursuant to this contract.

The Contractor must provide hours of operation for release of impounded vehicles as part of the proposal. Hours of operation must be posted in a prominent place on the front door or front gate of the facility.

Access to the storage facility shall be available to Public Services Staff or other authorized and legal representative, at all times and without costs. The City shall have the right to inspect the Contractor's equipment, storage facility and pertinent records with notice, during normal business hours.

Response Time:

Upon receipt of request for towing service by the City, Contractor shall dispatch the necessary trucks and equipment to arrive at the site so designated within the specified time, which shall not be more than thirty (30) minutes, after receipt of request. Should the Contractor fail to appear at a designated tow point within the specified time after receiving a call for a tow, the City reserves the right to call another towing service to perform the work.

If at any time, it becomes necessary for the City to request the services of another towing service for the reasons detailed above, the City retains the right to hold the Contractor retained under this contract responsible for any additional charges over and above the fee schedule recorded in this proposal. Such charges shall be assessed only if the response time is due to negligence on the part of the Contractor. Such negligence might include equipment failure.

The City reserves the right to call the closest available towing company in the event of an emergency as determined by the City, regardless of any contractual relationship with the City. At the discretion of the City, response time may be altered in the event of adverse road, traffic, or weather conditions.

Contractor Services:

The Contractor agrees to provide all services required by the City of Waconia for towing, impounding, transport, and storage of vehicles. These services shall be provided in accordance with the terms of the contract.

Vehicles will not be driven at any time during the towing procedure, except as incidental to the impound process. In the event that the vehicle is without tires or has flat tires, the Contractor is to tow the vehicle without damaging the wheels and not tow any vehicle on its rims.

Vehicle Release:

All vehicles towed or impounded are to be released in accordance with procedures adopted by the Contractor. Vehicles shall not be released without proper proof of ownership. If the vehicle is to be driven from the impound lot, proof of current insurance covering the vehicle and proof of a valid driver's license by the prospective driver shall be required.

At the time of the return of the vehicle, the Contractor shall give a receipt in writing which shall state the date of such vehicle release together with the charges enumerated thereon and the purpose for which the charges were made. The receipt shall be made in one original and one copy, all of which shall be signed by the Contractor and the person to whom the vehicle release is made. The Contractor shall retain the original of the receipt and shall deliver one copy to the owner of the vehicle. The City may request a copy of the original receipt at any time.

Records:

The Contractor will be responsible for maintaining proper records of all vehicles towed, stored, released, still held, junked, and destroyed. The records are to be available at all times for inspection by authorized City officials. The contractor must have the ability to receive and send documents electronically in addition to paper copies.

Towing Charges:

The performing Contractor shall be entitled to a charge for his/her towing and storage services pursuant to the fees submitted in the accompanying proposal. The Contractor shall agree that neither the City nor any Department thereof is responsible for any charges as a result of towing and/or storage and that the Contractor assumes all liability for any and all unpaid charges.

The Contractor agrees to accept as method of payment, cash, and one other method of payment such as check or credit card.

Evaluation Criteria:

The City of Waconia will evaluate all proposals received for the purposes of selecting a Contractor. The following factors, listed in relative order of importance, will be considered in making the selection:

- A. SERVICE: Response Time, Equipment, Location, Availability
- B. SECURITY/FACILITIES: Inside/Outside Storage Facility Security, Location, Procedures
- C. QUALIFICATIONS/EXPERIENCE: Staff Qualifications, Business References
- D. COSTS: Price List, Costs to Customers

The Contractor shall clearly identify any proposed deviations from the Terms and Conditions in their response to this RFP. Each exception must be clearly defined and referenced to the proper paragraph. If no exceptions are noted in the Contractor's proposal, the City will assume complete conformance and the successful Contractor will be required to perform accordingly. Alternate written proposals submitted may be considered; however, the City will make final determination as to suitability and compliance.

Proposals submitted not meeting all requirements may be rejected.

Submittal Requirements Worksheet

Please return this worksheet by Wednesday, October 11, 2023 at 12:00 p.m. (noon) to:

City of Waconia
Attn: Towing Proposal
201 Vine Street South
Waconia, MN 55387

A. SERVICE

- List the hours your facility is open to the public for release of impounded vehicles.

DAILY 8AM-5PM

- List the location and size of main storage facility and any other storage sites indicating which sites would be used to service this contract.

R&V SERVICE - 217 7TH ST, MAYER

CURRENTLY HAVE 55' X 58' FENCED AREA. WE WILL HAVE A 50' X 90'

- State guaranteed response time.

ADDITIONALLY BEGINNING OF NOVEMBER

WITHIN 30 MINUTES

We are well known for our fast response times

- Include a list of the tow trucks and equipment to be utilized under this contract. If Contractor does not presently own or lease enough tow trucks to meet the minimum number required, state what arrangements will be made.

1- WRECKER WITH DOLLIES LIGHT DUTY

2- 21' FLATBEDS - UP TO 10,000 LBS WITH WHEEL LIFTS

1- 28' FLATBED WITH WHEEL LIFT - UP TO 20,000 LBS

- State the maximum weight vehicle you can tow.

20,000 LB VEHICLE UP TO 9.5' TALL

- Describe equipment to be used in dispatching wreckers.

CELL PHONES & TOWBOOK DISPATCH APP.

- State your general release procedure. Include any other situation in which your procedure would vary from the general procedure and what your procedure would be in that situation:

Registered owner's must be with to release vehicle or have owner's authorization. We have them sign a release form as well. Payment is due during release.

- We also take pictures of prior damages before hooking up to avoid false accusations.
- State your procedure for handling and resolving complaints from the public regarding the services you would provide under this agreement.

We try to explain the situation or reasoning of why their vehicle was towed. If it's because of our services we try to understand their concerns and correct issues if needed.

- Explain fully the methods of payment you will accept from vehicle owners. State the procedures for vehicle owners to pay your charges.

Owner's will be able to pay with Card or Cash.
We have card processing in our office as well as with our drivers.

- Explain how you will inform the public of your charges and of the procedures described in questions above. Explain how you will inform the City and the public of any procedural change.

We will inform the city of any changes, but don't foresee any changes to be done.

B. SECURITY/FACILITIES

- Provide number of exterior & interior storage parking spaces.

We have 35 parking spaces in our fenced in areas.
We also have plenty of out of fence exterior spaces.

- Describe the security features of the storage facility – fencing, lighting, cameras, access, etc.

We have a 3-Bay Repair Shop that could hold 4 cars if necessary.
We have a 55'x58' Fenced area and will have a 50'x90' Fenced area in November. Both Fences have barb wire at the tops, have lighting and have cameras.

- Explain the policies and procedure pertaining to access of vehicles you would follow under this contract. Include any other situation in which your procedure would vary from the general procedure.

We do not access the vehicles unless necessary to try to steer them onto our bed or to get them into neutral, if possible.

C. QUALIFICATIONS/EXPERIENCE

- Provide company's legal name, address, and principal owners.

R&V Service & Towing LLC
217 7th St. NE, Mayer, MN 55360

Zachary + Lauren Stifter

Shop/office - 952-657-2119
Towing - 952-451-7715

- List previous and current contracts and agencies that are considered identical or similar to the scope of work described in this contract.

We work with Carver County Sheriff's Office + State Patrol for accidents + impounds.

We have worked with the City of Watertown for many years

+ are currently working with the City of Mayer.

We work with other local businesses for their towing needs.
- Bob's Repair - Waco Repair, Summit Auto Care to name a few.

- List subcontractors, if any, to be used in performing this service.

We feel we shouldn't need to subcontract this job out.

- Evidence of Insurability at required levels.

*Progressive is our insurance with on-hook coverage
along with a \$1,000,000 Policy*

- Include a list of references that can attest to Contractor's ethical, quality and service standards. The list shall include the complete name, address, and telephone number of each reference, with a description of his or her relationship to your firm.

*Corporal Robert Cripps - Carver County Sheriff's Office 320-583-5917
Deputy Larry Lessard - Carver County Sheriff's Office 952-457-6474*

D. PRICE

- Complete enclosed Price Sheet

TOWING, IMPOUNDING AND STORAGE PRICE SHEET

R&V Service & Towing LLC

Name of Company

Towing

Tow of automobiles and other vehicles under 10,000 pounds GVW

\$ 140

Tow of vehicles between 10,001 and ^{20,000} 26,000 pounds GVW

\$ 155

Tow of vehicles over 26,000 pounds GVW

\$ N/A

Additional charge, if any, for use of dolly

\$ 25

Additional charge, if any, for use of low-bed truck or trailer

\$ N/A

Additional charge, if any, for use of flat-bed truck

\$ None

Additional charge, if any, for use of winch with tow

\$ 25min. \$125/h.

Fuel Surcharge, if any

\$ None

Administrative Fees, if any

\$ None

Storage Charges

First _____ day period:

Inside storage

\$ 65

Outside storage

\$ 35

Large vehicle storage

\$ N/A

Each additional day:

Inside storage

\$ 65

Outside storage

\$ 35

Large vehicle storage

\$ N/A

When it's in our lot, minimum of one day, days add/start at M.dnight.

CITY OF WACONIA
SNOW REMOVAL SPECIFICATIONS
2023-2024 Calendar Year Snow Removal Operations

Sealed quotes will be accepted by the City of Waconia for snow removal operations for a one-year term for the period of winter season. These quotes will be accepted until **11:00 a.m. on October 27th, 2023**. The outside of the quote envelope must be clearly marked in the lower left hand corner: **"SEALED QUOTE – SNOW REMOVAL"**

Quotes must be mailed or delivered to:

City of Waconia, Attention: Public Services Director, 310 Tenth Street East, Waconia, MN 55387.
You may email them to krichardson@waconia.org

QUOTE PROPOSAL

The undersigned, Henning Excavating, as provider of the quote, proposes and agrees to furnish all
(Name of Individual or Firm)

labor and trucks to assist in snow removal from the streets of the City of Waconia during the winter seasons of Fall 2023 & Spring of 2024, under the following conditions:

1. Snow removal operations will commence within 12 hours of notification by designated representative of the City of Waconia.
2. Snow removal is to occur during the hours designated by representatives of the City of Waconia.
3. Hours of operation will be turned into Public Services Director or his designee for payment. City supplied invoice will be e-mailed to awarded contractor for verification of hours with payment to follow upon City Council approval.
4. Payments of service will be approved by City Council on either the First Monday, or Third Monday of the Month.

EQUIPMENT: The provider of this quote shall list and describe the equipment to be used in the snow removal operations:

***Note: You must have a minimum of a tandem truck or larger. The City will work with the awarded Contractor on the number of truck necessary based upon Municipal Streets added to its Street or Sidewalk Systems. In this situation, more than one vendor, or hauler may be awarded.**

Minimum; Tandem Axel Dump Trucks Units Available 6 Cost per hour \$150.00 Min Hrs.

QUOTE PROPOSAL: Those providing quotes shall list their best competitive price for snow removal operations in a "per hour" form, and, as an option, in another form, if desired.

The City of Waconia, at its option, may use its own trucks, operation(s) or other City owned or rented equipment for removal of snow. Any use of subcontractors by the quote winner requires prior written approval by the City of Waconia.

Those providing quotes must provide evidence of having public liability insurance in the amount of at least \$1,000,000 for injury, including accidental death to any person, in the amount of not less than \$600,000 for any one accident, property damage in the amount of not less than \$300,000, and proof of workers' compensation insurance in the amount prescribed by State Statute Chapter 176, saving harmless the City of Waconia, its officers, employees and authorized agents against any costs, disbursements or expenses of defending the same, arising out of or by reason of improper performance or compliance with applicable City ordinances.

It is further agreed that should the insurance coverage provided prove inadequate in amount, the quote winner shall indemnify and save harmless the City of Waconia, its officers, employees or agents.

The quote winner shall provide a performance bond to the City in the amount of not less than \$2,500 to insure against damage by the quote winner, its employees or subcontractors, to any City owned or controlled property, including street surfacing materials and curbing and gutters, sewer manholes and covers, water valves and boxes.

It is understood and agreed that this proposal may not be withdrawn within thirty (30) days after the quote closing date and that the City reserves the right to reject any and all quotes and to waive any informalities in the quotes or specifications.

QUOTE WINNER SHALL NOT BE PAID FOR "DOWN TIME" OR "BREAK TIME". STREET SUPERVISOR WILL CHECK TIME AND NUMBER OF UNITS USED.

Date: Oct 14 - 2023 Name of Company: Henning Excavating
Phone #: _____ Signature of Representative: Dennis Henning
Address: 17510 62nd Street
City: New Germany State: Mn. Zip: 55367



LEASE AGREEMENT - PURCHASE OPTION

A/C No. 9373500

LESSOR:

ZIEGLER INC.
901 W. 94th Street
Minneapolis, MN 55420

Salesperson: Corey R. Knuppel

LESSEE:

Customer Legal Name: CITY OF WACONIA
Customer Contact: Doug Bode
Address: 201 S VINE ST
WACONIA, MN 55387
Phone: 952-442-2184 Email: dbode@waconia.org

Subject to the terms of this agreement, Lessor and Lessee hereby agree as follows:

Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the following described equipment (collectively, the "Equipment").

Ziegler ID No. / Hours	Manufacturer	Model Name	Model Number	Serial/VIN
?? ??	CAT	WL	950	??

FOB: Freight Charge: \$ SHIP TO: (if different than above):

Risk of loss to the Equipment passes to Lessee on delivery of the Equipment to a licensed carrier or Lessee's receipt of the Equipment at Lessor's location.

LEASE TERM	RENTAL RATE	PAYMENT
☐ Spring ☐ Fall ☐ Full Year ☐ _____ days ☐ _____ weeks ☐ _____ months ☒ Other: Winter Lease START DATE: TBD	☐ \$_____ up to _____ hours ☐ \$_____ /Day (8 hours) ☐ \$_____ /Week (_____ hours)* ☐ \$9940 /Month (100/mo hours)* ☐ _____ Miles/per Month Excess Usage Rate: \$ 63.00 *Unless otherwise stated, Week (40 hours) and Month (176) hours.	☐ Weekly ☐ Monthly ☐ Total in advance All payments are due in advance.
PURCHASE OPTION: The Equipment may be purchased for \$ _____ less _____ rent paid, plus a carrying charge of _____ over prime on the unpaid balance, plus taxes and all other costs and expenses arising from the sale of the Equipment.		
ADDITIONAL TERMS AND CONDITIONS: Minimum 4 month committment, must start by Dec. 1		

The Equipment is subject to availability, and until this agreement is signed by Lessor, this agreement will constitute Lessee's offer to lease Equipment and will not be binding upon Lessor.

THE LEASE OF ANY EQUIPMENT IS GOVERNED BY THE TERMS OF THIS AGREEMENT, INCLUDING THE TERMS ON THE FOLLOWING PAGES. The agreement will be effective on the last date signed by a party.

LESSOR: ZIEGLER INC.

LESSEE

By: _____
(Authorized Signature)

By: _____
(Authorized Signature)

Name (Print): _____

Name (Print): _____

Date: _____

Date: _____

STANDARD TERMS

The Equipment is leased under these terms. Lessor rejects all different or additional terms submitted by Lessee, and any such terms will be void.

1. **INTELLECTUAL PROPERTY.** All intellectual property rights in the Equipment remain with the manufacturer, including all trademarks.

2. **TRUE LEASE.** The parties intend that this agreement constitutes a true lease under the Minnesota Uniform Commercial Code, as amended from time to time (the "UCC") and not a sale of the equipment subject to a security interest under Article 9 of the UCC to secure the purchase price of the Equipment. Lessor has title to the Equipment at all times. Lessee acquires no ownership, title, property, right, equity, or interest in the Equipment, other than its leasehold interest solely as lessee, subject to the terms of this agreement.

3. **LEASE TERM AND RENEWAL.** The term of this agreement will commence on the Start Date specified on page 1, and will continue for the period of the Lease Term specified on page 1. The term will automatically renew for like periods, unless either party gives the other party written notice of termination at least 30 days in advance of the expiration of any such period, in which event this agreement will terminate at the end of such period. Notwithstanding the foregoing, failure to promptly return the Equipment will result in automatic renewal. No allowance will be made for holidays, time in transit, or for any period of time that the Equipment may not be in actual use while in Lessee's possession.

4. **RENT AND EXCESS USAGE.** Lessee shall pay Lessor as rent the Rental Rate specified on page 1. Lessee shall pay Lessor for excess usage of the Equipment as additional rent, payable upon return of the Equipment. The rent for excess usage will be calculated based on each hour (or portion thereof) that the Equipment was used in excess of the applicable Lease Term multiplied by the Excess Usage Rate specified on page 1.

5. **PERSONAL PROPERTY.** The parties intend that each item of Equipment be and remain at all times personal property and not a fixture under applicable law, even if the item of Equipment, or any part of the Equipment, may be or becomes affixed to real property or any improvements. Upon Lessor's written request, Lessee shall obtain and provide to Lessor, from each real property owner, mortgagee, or lienholder for each location where Equipment is stored, a waiver of any interest that it may have in the Equipment arising from its interest in the real property.

6. **LABELS.** On or prior to the Start Date, for each item of Equipment, Lessee shall, at its expense, affix and maintain in a prominent position on each item of Equipment any plates, tags, stencils, or identifying labels provided by Lessor to indicate its ownership of the Equipment. Except as provided above, Lessee may not allow the name of any person or entity to be placed on the Equipment or cover-up, modify, or otherwise obstruct in any way Lessor's notice of ownership.

7. **LIENS.** Lessee shall maintain the Equipment free and clear of any claims, liens, or encumbrances. Lessee shall give Lessor immediate notice in case any Equipment is levied upon or becomes liable to seizure, for any reason.

8. **QUIET ENJOYMENT.** Provided Lessee is not in default, Lessor will not interfere with Lessee's quiet enjoyment of the Equipment during the term.

9. **PAYMENTS.** Lessee shall make all payments due under this agreement on the applicable due date in U.S. dollars in immediately available funds to Lessor at its address specified on page 1 or otherwise in writing from time to time. If any date on which a payment under this agreement becomes due and payable is not a business day, then Lessee shall make such payment on the next succeeding business day. Lessee shall pay prior to delinquency any and all taxes (including personal property taxes), assessments, licenses, and other government charges of any kind pertaining to the Equipment, including any charges based upon Lessee's leasehold interest in the Equipment, Lessor's ownership of the Equipment, and the leasing of the Equipment. Lessee shall pay all charges and expenses related to transportation of the Equipment, including delivery to Lessee and return to Lessor. Lessee shall pay all expenses of operating the Equipment.

10. **NON-CANCELABLE OBLIGATION.** Lessee's obligation to pay rent and all other amounts under this agreement is absolute and unconditional and is not subject to any abatement, counterclaim, defense, deferment, interruption, recoupment, reduction, or setoff for any reason whatsoever.

11. **LATE FEE.** If Lessee does not pay any amount payable to Lessor under this agreement by the due date, Lessee shall pay to Lessor a late fee equal to the lesser of 1.5% of the amount past due or the maximum amount allowed by law. Payment of any late charge does not excuse Lessee of any Event of Default (defined below). Late fees will be cumulative, and all payments will be applied first toward accrued late fees and second toward rent. Notwithstanding the foregoing, however, to the fullest extent permitted by applicable law, Lessor may apply any sums received from Lessee, in Lessor's discretion, to the obligations of this agreement or to any other obligations owed by Lessee to Lessor.

12. **EQUIPMENT PURPOSE.** Lessee represents that the Equipment will be used only for business, commercial, or agricultural purposes.

13. **USE OF EQUIPMENT.** Lessee shall possess and use the Equipment in a safe and prudent manner and in compliance with all applicable laws,

regulations, and Equipment manuals and instructions. Prior to each use, Lessee shall inspect the Equipment to confirm that it is in good condition suitable for Lessee's intended use, without defects, and that the Equipment includes readable labels with operating and safety instructions. In the event of material damage or malfunction of the Equipment, Lessee shall immediately discontinue use of the Equipment and notify Lessor. Lessee represents that the Equipment will be operated within its rated capacity, and, Lessee will be responsible for the proper use of ground rod, where applicable. To reduce the likelihood and risk of personal injury and property damage, only direct employees of Lessee properly trained and qualified in its operation will operate the Equipment. No third parties, including subcontractors and independent contractors, may operate the Equipment without prior written consent from Lessor.

14. **RECEIPT OF EQUIPMENT.** Delivery of the Equipment will be deemed to have occurred upon Lessor's delivery to the carrier in the event of shipment or on Lessee's receipt of the Equipment at Lessor's location. If Lessee receives the Equipment from Lessor's location, Lessee will not allow any third party, including subcontractors and independent contractors, to transport the Equipment, other than recognized transportation carriers directly hired by Lessee. By accepting delivery, Lessee acknowledges receipt of the Equipment and all other devices and materials necessary to securely connect the Equipment to Lessee's or its transportation carrier's towing motor vehicle.

15. **MAINTENANCE, CARE, AND LOCATION.** By accepting delivery of the Equipment, Lessee acknowledges that the Equipment is in good condition and to Lessee's satisfaction. Lessee shall, at its own cost and expense, maintain the Equipment in good repair and working order, except ordinary wear and tear, and properly serviced and stored. Lessee shall, at its own cost and expense, furnish any parts necessary to keep the Equipment in good working condition. All replacement parts must be original manufacturer's parts. Any such additions will become the property of Lessor. Lessee shall pay Lessor, upon termination of this agreement, any sum Lessor incurs to restore the Equipment to good repair and working order. Lessee will be liable for any wear and tear beyond normal, including belt wear and tire damage on a wheel machine. Lessee agrees that no modifications or improvements will be made to the Equipment without obtaining the prior written consent of Lessor. Lessee represents and warrants that all modifications or improvements to the Equipment will be completed in accordance with all applicable legal and safety requirements. Lessee acknowledges that any improvements or modifications negate and void any warranties, if any, applicable to portions of the Equipment affected by the improvement or modification and negate and void all warranties if the improvement or modification changes the purpose or use for which the Equipment was originally intended.

16. **RECORDS.** Lessee, at its own expense, shall maintain all Equipment-related records, logs, and other materials (collectively, "Records"), including copies of all maintenance and repairs, in a manner no less comprehensive or accurate than Lessee's normal customary practices with respect to Lessee's similar equipment and as required by applicable law. Lessee shall promptly furnish to Lessor such Records upon request.

17. **INSPECTION.** Lessee shall permit Lessor, through any of its officers, employees, or agents, on reasonable notice, to inspect the Equipment and Records during regular business hours, and in compliance with Lessee's reasonable security procedures. Lessee may not remove the Equipment from the state to which it was originally delivered for any reason without the prior written approval of Lessor.

18. **RETURN OF EQUIPMENT.** Upon the expiration or termination of this agreement, Lessee shall return the Equipment or arrange delivery of the Equipment to Lessor, as agreed to by Lessor and during Lessor's normal business hours, in the same condition and repair as when delivered to Lessee, subject only to ordinary wear and tear. If the Equipment is returned to Lessor in an unacceptable condition, Lessee shall pay Lessor, upon receipt of an invoice, all charges, as applicable, for cleaning, servicing, refueling, repairs, and replacements necessary to restore the Equipment to acceptable condition. The rental term will continue while any of the Equipment is being restored to acceptable condition, and Lessee shall make lease payments until all repairs and service are complete.

19. **PROPERTY AND LIABILITY INSURANCE.** Lessee will be liable for any loss or damage to the Equipment. Lessee shall, at its own expense provide and maintain for each item of Equipment insurance against loss, theft, and damage ("Property Insurance") in an insured amount equal to the full replacement value of such item of Equipment, and in a form, and with companies, satisfactory to Lessor, including the insurer's agreement to give Lessor 30 days' prior written notice before cancellation or material change in the policy. Lessee shall name Lessor (or shall cause Lessor to be named) as loss payee on the Property Insurance. Lessee shall, at its own expense, provide and maintain comprehensive general liability insurance ("Liability Insurance") in an amount no less than \$1,000,000, and in a form, and with

companies, satisfactory to Lessor, including the insurer's agreement to give Lessor 30 days' prior written notice before cancellation or material change in the policy. Lessee shall name Lessor as an additional insured (but without imposing on Lessor any liability to pay the premiums for such insurance) on the Liability Insurance. Lessor will be entitled to all of the insurance proceeds necessary to compensate Lessor for its damages under either the Property Insurance or the Liability Insurance, including lost rent, residual fair market value, incidental and consequential damages, repair costs, and reasonable attorneys' fees and costs, as applicable, and Lessee will be entitled to the balance of such proceeds, if any. If Lessee receives any proceeds under the Property Insurance, unless received with respect to a loss that has not materially impaired the Equipment, Lessee shall promptly forward such amounts to Lessor.

20. **INSURANCE CERTIFICATES.** On or before the Start Date, and at such other times as Lessor may request, Lessee shall provide Lessor with a certificate of insurance evidencing the maintenance of the Property Insurance and the Liability Insurance. If Lessee does not procure and maintain the Property Insurance or the Liability Insurance, Lessor may procure such insurance, and Lessee shall pay the cost thereof to Lessor upon demand.

21. **HAZARDOUS MATERIALS.** The Equipment and any attachments to the Equipment may not be exposed to regulated substances, including hazardous substances, hazardous materials, hazardous wastes, toxic substances, or pesticides, as those terms are defined in applicable federal, state, and local environmental laws, regulations, and rules (collectively, "Hazardous Materials"). Lessee shall return all Equipment, including any attachments, tools, and machinery leased from Lessor free of all Hazardous Materials. If any Equipment is exposed to Hazardous Materials, Lessee shall immediately contact Lessor and provide all information regarding such exposure, including: which items of Equipment; location; circumstances; identification of Hazardous Materials; and what, if any, remedial measures Lessee has taken. Lessee shall be solely responsible for all charges applicable to remove the Hazardous Materials from the Equipment and shall provide Lessor certification of such removal from an authorized hazardous materials remediation entity. Lessor has the right to determine, however, in its sole discretion, if the Equipment has been adequately remediated. If the Hazardous Materials cannot be removed from the Equipment, Lessee shall pay Lessor the full replacement cost of the Equipment as of the Start Date, all lease payments that accrued during the term of this agreement, and all disposal, remediation, or other expenses incurred by Lessor.

22. **LOSS OR DAMAGE.** Lessee shall bear the risk of any loss, damage, destruction, theft, condemnation, or other casualty to or of the Equipment from any cause whatsoever (each, a "Casualty Loss") occurring during the period beginning upon delivery and continuing until the Equipment has been returned to Lessor's actual physical possession. Lessee shall notify Lessor in writing within two calendar days of any Casualty Loss, and within 10 calendar days of the Casualty Loss, Lessee shall, at Lessor's option, pay to Lessor the sum necessary to compensate Lessor for such Casualty Loss, which sum will include the full replacement cost of the Equipment, plus all payments due but unpaid under this agreement, plus all payments under this agreement that would have accrued during the remainder of the term of this agreement, in which case the Equipment will become the property of Lessee and no longer subject to this agreement.

23. **INDEMNIFICATION.** Lessee releases any claim now or hereafter existing against Lessor on account of, and shall indemnify, defend, and hold harmless Lessor, and all of its directors, officers, agents, employees, assigns, and successors (collectively "Indemnitees") from and against all claims, demands, actions, liabilities, obligations, losses, liens, costs, or expenses (including attorney's fees), damages, fines, or penalties whatsoever (collectively, "Claims") by all persons or parties arising out of, relating to, resulting from, or alleged to have resulted from: (a) the rental, possession, use, maintenance, operation, installation, storage, handling, transportation, replacement, or disposition of the Equipment; (b) any latent or other defects of the Equipment; (c) the negligence, gross negligence, willful misconduct, or any other malfeasance of any party; (d) any act or omission pertaining to occupational safety or any liability thereof; or (e) any act or omission pertaining to an environmental duty or any liability thereof, including: (i) property damage, bodily injury, or death; (ii) any breach of this agreement by Lessee; and (iii) all claims, liens, or encumbrances upon the Equipment. Lessee shall reimburse Lessor for all attorneys' fees, costs, and expenses incurred by Lessor in defense of any Claims. Without limitation, Lessee is liable for any Casualty Loss and all Claims caused by the failure of any device or material used in transporting the Equipment or hitching it to a towing vehicle, regardless of who furnished the device or material or who hitched the Equipment. Lessee's indemnification obligations, however, will not extend to any Claims caused by the sole gross negligence or willful misconduct of any Indemnitee. Liability for damage or loss of the Equipment will be limited to the full replacement cost of the Equipment at the time it is lost or damaged, less its salvage value, plus an administrative fee and Lessor's related expenses, such as loss of use,

appraisal fees, recovery costs, and attorneys' fees. Lessee's obligations to Indemnitees under this section will survive expiration or termination of this agreement.

24. **LIMITATION OF REMEDIES.** Lessee's SOLE AND EXCLUSIVE REMEDY for any failure of or defect in the Equipment will be the termination of the rental charges at the time of failure, provided the Equipment is returned to Lessor within 24 hours. LESSOR WILL NOT BE RESPONSIBLE FOR ANY LOSS, DAMAGE, OR INJURY TO LESSEE OR LESSEE'S PROPERTY, INCLUDING INTERRUPTION OF BUSINESS, LOST PROFITS, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, ARISING OUT OF OR RELATING TO ANY BREACH OF ANY PROVISION OF THIS AGREEMENT OR IN ANY WAY CONNECTED WITH THE EQUIPMENT, INCLUDING ITS USE OR CONDITION. LESSEE UNDERSTANDS AND AGREES THAT NO OTHER REMEDY WILL BE AVAILABLE TO LESSEE, WHETHER ANY CLAIMS FOR INJURY OR DAMAGES ARE ASSERTED ON THE BASIS OF WARRANTY, NEGLIGENCE, CONTRACT, STRICT LIABILITY, OR OTHERWISE. LESSOR WILL NOT BE LIABLE TO LESSEE FOR INFRINGEMENT OF ANY TYPE RESULTING FROM THE RENTAL, PERFORMANCE, OR USE OF THE EQUIPMENT AND ANY SERVICES PROVIDED UNDER THIS AGREEMENT. IN NO EVENT WILL LESSOR'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL OF THE AMOUNTS PAID TO LESSOR UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS APPLY EVEN IF LESSEE'S REMEDIES UNDER THIS AGREEMENT FAIL THEIR ESSENTIAL PURPOSE.

25. **DISCLAIMER OF WARRANTY.** THE EQUIPMENT IS LEASED AS IS AND WITH ALL FAULTS. LESSOR MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY AGAINST INTERFERENCE, OR WARRANTY AGAINST INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET, OR OTHER PROPRIETARY RIGHTS OF A THIRD PARTY, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

26. **DATA AND PRIVACY.** Lessor and its partners, affiliates, subsidiaries, and third parties, including manufacturers, dealers, and service providers (collectively, "Lessor Parties") collect and share information relating to products, services, and customers as detailed in Lessor's Privacy Statement located at www.zieglercat.com/privacy as well as applicable manufacturers' statements, which are hereby incorporated into this agreement by this reference. Manufacturers' statements may be updated at any time without notice. Equipment equipped with telematics or other tools, applications, or devices to assess information, such as machine locations, operating hours, health of the Equipment, and basic utilization (collectively "Telematics"), whether manufactured by Caterpillar or by other companies, collect and transmit information to the manufacturer, its dealers, affiliates, subsidiaries, and third parties with a legitimate business reason to access the information, including providing services and support, developing new products and services, personalizing user experiences, improving products, or complying with legal obligations. Lessee understands that the Telematics may have been activated on the Equipment by Lessor or the manufacturer, and may be subject to or required by specific manufacturer user agreements available to Lessee upon request. Lessee consents to the collection, use, storage, processing, sharing, and disclosure of such information by Lessor Parties in accordance with the terms of this agreement, Ziegler's Privacy Statement, and applicable manufacturers' statements.

27. **PRECAUTIONARY FINANCE DOCUMENTS.** At any time and from time to time upon request by Lessor, Lessee shall sign and deliver, or cause to be signed and delivered, in form and substance satisfactory to Lessor, any documents relating to the financing of the Equipment, including contracts, promissory notes, guarantees, or other evidences of indebtedness. Lessee authorizes Lessor to file precautionary financing statements and other similar filings and records with respect thereto. Lessee may not file any corrective or termination statements or partial releases with respect to any financing statements or similar filings or recording filed by Lessor in connection with any Equipment, except with Lessor's prior written consent or if Lessor fails to file a corrective or termination statement or release on request from Lessee after the expiration or earlier termination of this agreement. Lessee shall pay all costs incurred in connection with such filings, including attorneys' fees.

28. **UCC.** All terms used but not defined in this agreement that are defined in the UCC have the meanings set forth in the UCC, and such meanings will automatically change at the time that any amendment to the UCC, which changes such meanings, becomes effective.

29. **EVENTS OF DEFAULT.** Each of the following will be an event of default under this agreement (each, an "Event of Default"): (a) Lessee fails to make any payment of rent or any other amount under this agreement when due; (b) Lessee possesses, uses, maintains, operates, installs, stores, handles, transports, replaces, or disposes (collectively, "Uses") the Equipment or

permits any Use of the Equipment for any purpose other than for its intended lawful purposes; (c) Lessee fails to procure or maintain any insurance coverage required by this agreement; (d) Lessee attempts to sell, transfer, assign, encumber, or detain any of the Equipment; (e) Lessee defaults in the observance or performance of any other term, covenant, or condition in this agreement not included in this Section, and Lessee fails to remedy such default with 30 business days after notice by Lessor to Lessee of such default; (f) Lessee provides any false, misleading, or fraudulent representation or warranty to Lessor, either in this agreement or in other documents furnished to Lessor; (g) Lessee or any guarantor of Lessee's obligations under this agreement (each, a "Guarantor") becomes insolvent, ceases to do business, makes an assignment for the benefit of creditors, or files any petition under bankruptcy, reorganization, insolvency, moratorium, or any other law for the relief of debtors (each, a "Petition"); (h) any Petition is filed against Lessee or any Guarantor or any receiver, trustee, or similar official is appointed to take possession of the properties of Lessee or any Guarantor, unless such Petition or appointment ceases to be in effect within 30 days of filing or appointment; (i) any piece of Equipment is lost, stolen, destroyed, irreparably damaged, or subject to any sale, lien, claim, security interest, or encumbrance (other than in favor of Lessor or its assignee); (j) any default occurs under any other agreement between Lessee and Lessor or any entity related to or affiliated with Lessor; (k) Lessee is in arrears on its open account balance with Lessor; (l) any breach or repudiation by any Guarantor under any guaranty obtained in connection with this agreement; (m) Lessee uses any trade name, assumed name, or other name except Lessee's name as set forth in this agreement; (n) Lessee changes its state of organization without Lessor's prior written consent; (o) Lessee fails to give Lessor prior written notice of any change in Lessee's address, Lessee's name, or Lessee's use of any other name; or (p) Lessee executes or files any termination statement that terminates the filings of financing statements naming Lessor as secured party, without the prior written consent of Lessor.

30. **REMEDIES.** Upon the occurrence of an Event of Default, Lessor may, at its option, exercise any one or more of the following remedies: (a) declare this agreement in default and all amounts due or to become due under this agreement immediately due and payable; (b) terminate this agreement in whole or in part; (c) take possession of or render unusable any item of Equipment, wherever it may be located, without demand or notice, without any court order or other process of law, and without any liability to Lessee for any damages occasioned by such action, in which event Lessee agrees to make the Equipment available to Lessor at a place or places acceptable to Lessor, and for which purpose Lessor may enter any premises where the Equipment may be found; (d) require Lessee to deliver any item of Equipment at a location designated by Lessor, and for each day that Lessee fails to return any item, Lessor may demand an amount equal to rent, prorated on the basis of a 30-day month, in effect immediately prior to the Event of Default; (e) proceed by court action to enforce performance by Lessee of this agreement or to recover all damages and expenses incurred by Lessor by reason of any Event of Default; (f) retain all monies theretofore paid by Lessee as compensation for the reasonable use of the Equipment by Lessee or for depreciation of the Equipment; (g) sell any or all of the Equipment at public or private sale, with or without notice to Lessee or advertisement, or otherwise dispose of, hold, use, operate, lease to others, or keep idle such Equipment, and without any duty to account to Lessee for such action or inaction or for any proceeds with respect thereto, and apply the net proceeds thereof (after deducting all expenses (including legal fees and costs) incurred in connection therewith) to the amounts owed to Lessor under this agreement, provided Lessee will remain liable for any deficiency that remains after any sale or lease of such Equipment; or (h) any other remedies permitted by law or in equity. The remedies in this agreement will be cumulative and may be exercised singularly, concurrently, or successively. If Lessee fails to perform any of its obligations under this agreement, Lessor may (but need not) at any time thereafter perform such obligation, and Lessee shall pay the expenses incurred in connection therewith to Lessor on demand.

31. **LESSEE COOPERATION TO SELL OR LEASE.** Unless Lessee has elected to purchase the Equipment, Lessee, on Lessor's written notice, shall cooperate with Lessor's efforts to sell or lease the Equipment, including permitting prospective purchasers or lessees to fully inspect the Equipment and the Records during regular business hours and in compliance with Lessee's reasonable security procedures.

32. **TIME.** Time is of the essence of this agreement.

33. **COMPLIANCE WITH LAWS, RULES, AND REGULATIONS.** Lessee shall comply with all laws, rules, regulations, federal, state and local, which are or may become applicable to the Equipment and the transactions contemplated by this agreement, including applicable federal and state safety orders and standards.

34. **FORCE MAJEURE.** Lessor will not be liable to Lessee, and will not be deemed to have breached this agreement, for any failure or delay in performing any term of this agreement, to the extent the failure or delay is

caused by or results from acts beyond Lessor's control, including acts of God, flood, fire, earthquake, explosion, war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest, requirements of law, actions by any governmental authority, embargoes or blockades, national or regional emergencies, labor stoppages or slowdowns or other industrial disturbances, delays in manufacture, supply shortages or delays, shortages of adequate power, or failure of transportation (collectively, "Force Majeure Events"). Any Force Majeure Event that has an adverse effect on Lessor's ability to perform will absolve Lessor from any liability to Lessee.

35. **ASSIGNMENT.** Lessee may neither assign, transfer, or otherwise dispose of its rights under this agreement nor loan, sublease, hypothecate, or otherwise transfer or encumber the Equipment. Lessor may assign all of its rights under this agreement, in whole or in part, with or without notice to Lessee, but subject to Lessee's rights under this agreement.

36. **WAIVER.** No waiver under this agreement will be effective unless it is in writing and signed by the party waiving its right. Any waiver authorized on one occasion will be effective only in that instance and only for the purpose stated and will not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising under this agreement: (a) any failure or delay in exercising any right, remedy, power, or privilege, or in enforcing any condition under this agreement, or (b) any act, omission, course of dealing, or course of performance between the parties.

37. **SEVERABILITY.** If any term of this agreement is unenforceable in any jurisdiction, such unenforceability will not affect any other term of this agreement or render unenforceable such term in any other jurisdiction.

38. **SURVIVAL.** Subject to the terms of this agreement, the representations of Lessee contained in this agreement survive indefinitely. All covenants of Lessee contained in this agreement survive the Start Date indefinitely.

39. **ELECTRONIC SIGNATURES.** The Electronic Signatures (whether digital or encrypted) included in this agreement are intended to authenticate this writing and have the same effect as manual signatures. "Electronic Signature" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a person with the intent to sign the record, including facsimile or email electronic records, in accordance with the Uniform Electronic Transactions Act, Minnesota Statutes 325L.01–325L.19, as amended from time to time. A signed copy of this agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this agreement.

40. **MISCELLANEOUS.** All notices given under this agreement must be in writing to the party at its address shown in this agreement and will be deemed effective when personally delivered or three days after being deposited in the United States mail, postage prepaid, certified mail, return receipt requested. Either party may change its address for notice by proper written notice to the other. This agreement may be signed in any number of counterparts, each of which, when signed and delivered, will be deemed an original, and all of which will constitute the same agreement. This agreement, including any related exhibits and schedules, constitutes the sole and entire agreement of the parties with respect to the subject matter of this agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, if any, with respect to such subject matter. This agreement may not be amended except by written amendments signed by both Lessee and Lessor. This agreement is binding on and inures to the benefit of the parties and their permitted successors and assigns. Nothing in this agreement creates a joint venture or partnership between the parties. Neither party has any right or authority to create any obligations on behalf of or in the name of the other or to bind the other party to any contract, agreement, or undertaking with any third party.

41. **INTERPRETATION.** For purposes of this agreement, the words "include," "includes," and "including" are deemed to be followed by the words "without limitation," and the word "or" is not exclusive. The parties drafted this agreement without regard to any presumption or rule requiring construction or interpretation against the party drafting any instrument or causing any instrument to be drafted.

42. **LEGAL FEES.** Lessee shall pay Lessor's legal fees, court costs, and any other costs of recovery incurred in enforcing this agreement.

43. **GOVERNING LAW; VENUE.** This agreement is governed by and will be construed in accordance with the laws of the State of Minnesota, without regard to any principles of conflicts of law. If any legal action is brought to enforce this agreement, the U.S. District Court for the District of Minnesota or the Hennepin County District Court (4th Judicial District) will be the exclusive jurisdiction and venue for said action unless Lessor, in its sole discretion, commences proceedings in a different jurisdiction or venue.



RENTAL AGREEMENT

Quote

Kubota



Bobcat

FELLING



3021 W. 133rd St., Shakopee, MN 55379
o 6140 Hwy. 10 N.W., Anoka, MN 55303
o 23580 Hwy. 55, Loretto, MN 55357

Tel. 952/445-6310 • Fax 952/496-0263
Tel. 763/323-1720 • Fax 763/422-3949
Tel. 763/479-8200 • Fax 763/479-8201

LESSEE:

City of Waconia

TRUCKING DATA

DOB/LIC #

Waconia Minn.

PHONE #

Shane Fineran

952-442-3100

SHIPPED TO:

OUT

FUEL OUT

HOUR METER READING

IN

FUEL IN

P.O.#

Date of Order

Date & Time Received

Rental Term

Date & Time Returned

Nov 2023

Sublet for

Equipment Under Rental

NOTE: *****TERMS: Normal Wear & Tear. All Damage Billed to Customer *****

Model

Make

Serial #

Serial #

Serial #

Serial #

Serial #

Serial #

Attachments

Make

Serial #

Serial #

Serial #

Serial #

Serial #

Serial #

Bucket #

Trailer #

Bucket

SPECIAL EQUIPMENT

130 Hums Max on Hr. Meter Per Month
Over 130 is \$55.00 Per Hour

SPECIAL AGREEMENTS

Normal Wear & Tear
5 Month Winter Rental Program
If Don't Take for 5 Month Regular Rate
or 7500.00 Per Month Applies

Customer's Ins.

☐ Insurance Certificate No.:

Agent Name

Phone

☐ Signee agrees to have all applicable insurance - i.e. FIRE & THEFT on Equipment rented at all times.

The above described equipment has been received in good repair and operating condition and is accepted by LESSEE, subject to the terms of this written Rental Agreement between LESSEE and LESSOR including the terms and conditions on the reverse side hereof, which are hereby made a part of by reference as if fully set forth herein.

RECEIVED BY

Date

RETURNED BY

Date

221 Dealer Representative Signature

Invoice #

Check #



RENTAL RESERVATION

226543742

BRANCH J20
2340 FERNBROOK LN N
PLYMOUTH MN 55447-4727
763-557-1234
763-509-2350 FAX

Job Site

CITY OF WACONIA
310 10TH ST E
WACONIA MN 55387-4551

Office: 952-442-2615 Job: 952-442-2615

Customer # : 6741303
Reserved Date : 10/30/23
Scheduled Out : 11/13/23 09:00 AM
Estimated In : 04/01/24 09:00 AM
UR Job Loc : 310 E 19TH ST, WACON
UR Job # : 1
Customer Job ID :
P.O. # : TBD
Ordered By : SHANE FINERAN
Written By : DEREK STIFTER
Salesperson : TIMOTHY OPITZ

**This is not an invoice
Please do not pay from this document**

CITY OF WACONIA
310 10TH ST E
WACONIA MN 55387-4551

RENTAL ITEMS:

Qty	Equipment	Description	Minimum	Day	Week	4 Week	Estimated Amt.
1	9042040	LOADER WHEEL 4.0-4.9 CUBIC YARD		1,150.00	2,870.00	5,500.00	27,500.00

Rental Subtotal: 27,500.00

SALES/MISCELLANEOUS ITEMS:

Qty	Item	Price	Unit of Measure	Extended Amt.
1	MISCELLANEOUS PARTS SALES Attachment for S Houle adapter	[PART/MCI] 2200.000	EACH	2,200.00
1	DELIVERY CHARGE	350.000	EACH	350.00
1	PICKUP CHARGE	350.000	EACH	350.00

Sales/Misc Subtotal: 2,900.00

Agreement Subtotal: 30,400.00

Tax: 2,546.00

Estimated Total: 32,946.00

COMMENTS/NOTES:

CONTACT: SHANE FINERAN
CELL#: 952-820-5872

TO SCHEDULE EQUIPMENT FOR PICKUP, CALL 800-UR-RENTS (800-877-3687)
WE ARE AVAILABLE 24/7 TO SUPPLY YOU WITH A CONFIRMATION #
IN ORDER TO CLOSE THIS CONTRACT



ENGINE

Make	FPT
Model	F4HFE613S
Emissions Certification	Tier 4 Final
Emissions Technology	SCR/DOC
Type	4-stroke, turbocharged and air-to-air cooled
Cylinders	6-cylinder in-line
Bore/Stroke	4.09 x 5.20 in (104 x 132 mm)
Displacement	411 in ³ (6.7 L)
Fuel	#2 Diesel, #1 and #2 mixture permitted for cold temperatures
Fuel injection	Direct injection – electronic
Fuel filter	Replaceable, spin-on cartridge
Fuel pump	Bosch CP 3.3
Gradeability:	
Side-to-side	35°
Fore and aft	35°
Air filter	Dry type elements w/ warning restriction indicator
Mid-mount cooling module w/ auto reversing fan:	
Mid-mount Air/Water w/ Lube Oil Cooler	
Fan – hydraulic driven:	
Style	8 blade puller
Diameter	32 in (813 mm)
Water pump	Integral
Engine oil pump operating angle ratings:	
Side-to-side	35°
Fore and aft	35°
Oil filtration	Replaceable, full flow spin-on cartridge
Engine speeds	RPM
Rated – full load	2000
Horsepower – Maximum Power:	
Peak gross @ 1800 RPM	230 hp (172 kW)
Net rated @ 2000 RPM	206 hp (153 kW)
Peak net @ 1800 RPM	213 hp (159 kW)
Torque – Maximum Power:	
Gross @ 1300 RPM	873 lb-ft (1 184 N-m)
Net @ 1300 RPM	845 lb-ft (1 145 N-m)
Net torque rise:	
Maximum power range	56%

NOTE: Gross horsepower and torque per SAE J1995.
Net horsepower and torque per SAE J1349.

DRIVETRAIN

Transmission:	
4F/3R Proportional w/ Electronic Control	
Module torque sensing autoshift/manual shift and modulation	
Gears	Helical cut
Gear ratios – 4-speed	Forward/Reverse
1st	3.754/3.551
2nd	2.184/2.071
3rd	1.072/1.017
4th	0.636/ —
Gear ratios – 5-speed	Forward/Reverse
1st	3.921/3.718
2nd	2.255/2.138
3rd	1.466/0.894
4th	0.942/ —
5th	0.613/ —
Torque converter:	
Stall ratio – 4-speed	2.283:1
Stall ratio – 5-speed	2.420:1
Differential:	
Limited slip w/ 67% available axle torque to wheel w/ traction	
Rear axle oscillation	24° total
Front and rear axles:	
Differential ratio	4.11
Planetary ratio	6.00
Final axle ratio	24.67
Heavy-duty axles – optional:	
Front axle equipped w/ locking differential	
Rear axle equipped w/ open differential	
Planetaries	Outboard

Service brakes:	
Hydraulically actuated, maintenance-free, multiple wet disc w/ accumulator to all four wheels	
Brake surface area:	
Rear hub	600 in ² (0.387 m ²)
Front and opt. rear hub	721 in ² (0.465 m ²)
Parking brakes:	
Spring-applied hydraulic release disc on transmission output shaft neutralizes power flow to wheels when engaged	
Travel speeds – 4-speed transmission:	
	Forward Reverse
	mph (kph) mph (kph)
1st	4.4 (7.1) 4.7 (7.5)
2nd	7.4 (12.0) 7.8 (12.6)
3rd	14.5 (23.3) 15.2 (24.4)
4th	22.8 (36.6) —

Travel speeds – 5-speed transmission:	
	Forward Reverse
	mph (kph) mph (kph)
1st	4.1 (6.6) 4.4 (7.0)
2nd	7.1 (11.4) 7.4 (12.0)
3rd	10.6 (17.1) 17.2 (27.7)
4th	16.4 (26.4) —
5th	24.9 (40.0) —

NOTE: Travel speeds at full engine throttle w/ 23.5-R25 L3 Radial tires.

ELECTRICAL

Voltage	24 Volts, negative ground
Alternator	120 amp
Batteries (2)	12-volt

OPERATOR ENVIRONMENT

ROPS cab AC w/ heat; 8" LCD touchscreen display, adjustable armrest w/ 3 configurable buttons; Key start; Articulated power steering w/ tilt column; Fully adjustable, suspension seat w/ headrest; Foot throttle; Single lever (joystick) loader control w/ auxiliary function and fully adjustable wrist rest, 2 cup holders; Interior rear view mirror; 3 inch (76 mm) retractable seat belt; Integrated 4-corner strobe; Multiple storage trays; Single brake pedal; F/N/R shuttle switch; Left and Right external rear view mirrors; Pressurized air filtering; Anti-glare window strip; Front and Rear Defroster; Side window, partial/fully open; 2 Dome lights; Wipers, rear and intermittent front; Windshield washers, front and rear; Rubber floor mat; Horn; Radio ready – Includes antenna, speakers, wiring, radio fuse, 20A converter, 12-volt auxiliary power outlet, and USB outlet.

Displays/Gauges:

Digital:

Transmission oil temperature; Engine coolant temperature; Fuel level; DEF level.

LCD screen:

Hour meter; Engine speed; Travel speed; Time; Automatic transmission indication; Current gear selection; FNR indication; DeClutch indication; Engine mode indication; Trip computer A/B; Fuel consumption; Multiple languages, Metric/English; Engine diagnostics; Transmission diagnostics; Warning prompts; Error reporting; Diff. Lock*.

Audible/Visual alarms:

Warning lights:

Four-way flashers and turn signals; Brake pressure; Lamp/high beam indication; Engine Block Heater.

Caution warnings:

Parking brake; Coolant temperature; Hydraulic oil temperature; Transmission oil temperature; Air filter; Transmission filter; Hydraulic filter; Alternator; Low fuel.

Critical warnings:

Engine oil pressure; Brake pressure; Steering pressure – w/ aux steering*; Coolant temperature; Hydraulic oil temperature; Transmission oil temperature.

Backup alarm

Maintenance reminders:

Cab air filter; Engine oil filter; Fuel pre-filter; DEF tank vent filter; SCR supply filter; Hydraulic oil and filter; Engine air filter; Engine coolant; Drive belt; Cab recirculation filter; Engine breather filter; Transmission breather; Front and rear axle fluid; SCR supply module filter.

NOTE: *If equipped w/ option.

OPERATING WEIGHT

Z-Bar

Unit equipped w/ 23.5-R25 L3 Radial tires; ROPS cab w/ heater and A/C; Heavy-duty counterweight – 4,940 lb (2 241 kg); Heavy-duty batteries; Front and rear fenders; Lights; Full fuel; 165 lb (75 kg) operator; 4.25 yd³ (3.2 m³) MD pin on w/ bolt on edge:

40,057 lb (18 170 kg)

XR

Unit equipped w/ 23.5-R25 L3 Radial tires; ROPS cab w/ heater and A/C; Heavy-duty counterweight – 4,940 lb (2 240 kg); Heavy-duty batteries; Front and rear fenders; Lights; Full fuel; 165 lb (75 kg) operator; 4.25 yd³ (3.2 m³) MD pin on w/ bolt on edge:

40,648 lb (18 438 kg)

HYDRAULICS

Main pump – steering/implement:

Closed center pressure/flow compensated

Tandem variable displacement – load-sensing:

Max rated flow x2: 31.6 gpm @ 2000 RPM
(120 L/min @ 2000 RPM)

Loader control valve:

Closed-center, sectional 2, 3 or 4-function
w/ control for lift, tilt and auxiliary hydraulics

Loader auxiliary steering:

Hydraulic orbital center-pivot articulating
w/ on-demand oil flow

High pressure standby:

Implement 3,625 psi (25 000 kPa)
Steering 3,500 psi (24 132 kPa)

Filtration:

Filtered vent w/ relief on hydraulic reservoir,
maintains 3-5 psi on reservoir, 10-micron, return
filter furnishes only clean oil to all components
of the system

SERVICE CAPACITIES

Fuel tank 76.0 gal (288.0 L)

DEF tank – Diesel Exhaust Fluid:

Usable 9.8 gal (37.1 L)
Total 15.6 gal (58.9 L)

Hydraulic system:

Reservoir 24.0 gal (90.8 L)
Total 47.0 gal (178.0 L)

Transmission:

Service w/ filter 36.0 qt (34.1 L)

Front and rear axle:

Front axle 42.3 qt (40.0 L)
Rear axle 42.3 qt (40.0 L)

Engine oil w/ filter 16.0 qt (15.1 L)

Cooling system 32.0 qt (30.0 L)

OTHER SPECIFICATIONS

Lift cylinder:

Bore diameter 5.5 in (139.7 mm)
Rod diameter 3.0 in (76.2 mm)
Stroke 33.3 in (845.7 mm)

Dump cylinder:

Bore diameter 6.5 in (165.1 mm)
Rod diameter 3.5 in (88.9 mm)
Stroke 23.6 in (599.6 mm)

Loader:

Z-Bar loader linkage; Single control for
lift and tilt; Positive hold float; Automatic
return-to-dig; Automatic height control;
Automatic return-to-travel; Brake pedal
transmission disconnect; Bucket position
indicator on bucket.

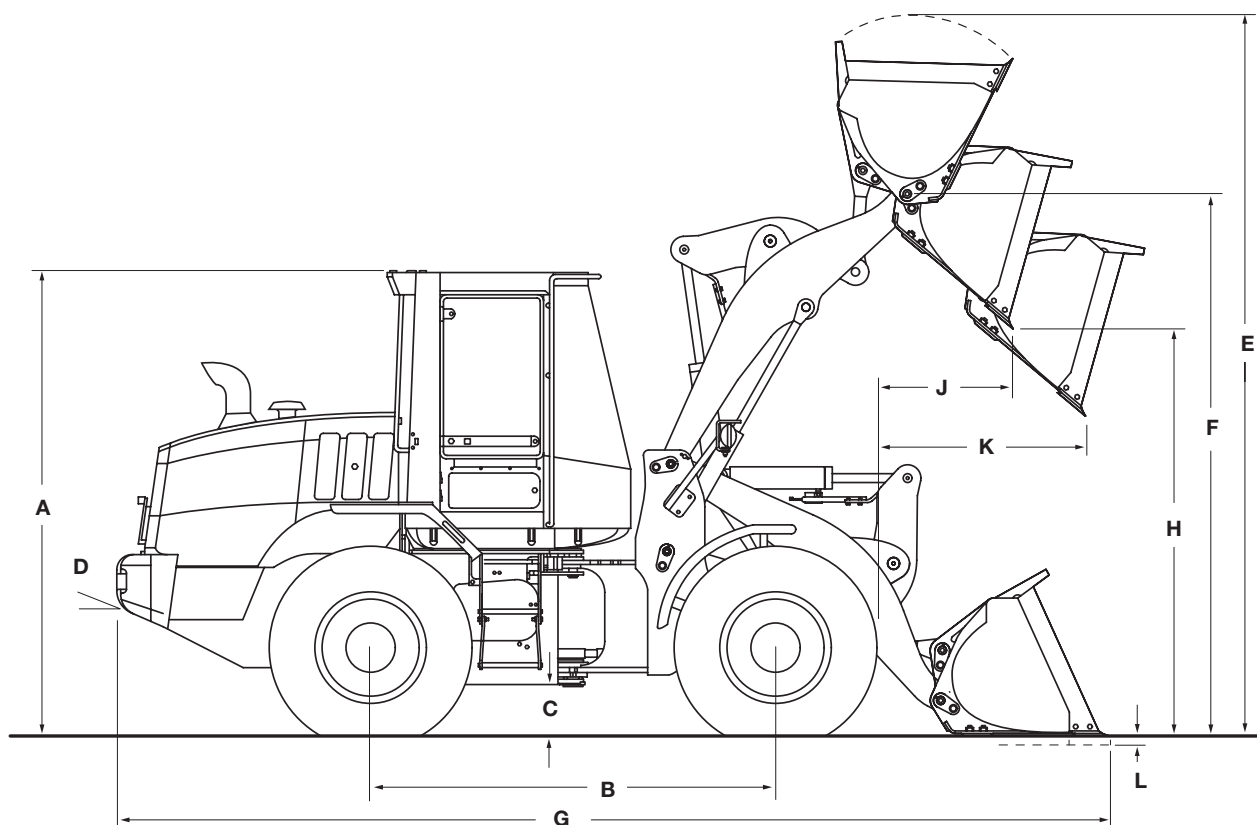
Cycle time:

Raise w/ rated bucket load 6.2 sec
Dump w/ rated bucket load 1.2 sec
Float down 2.5 sec

Sound level in Cab (LpA) 68 dB(A)

Exterior sound level (LwA) 104 dB(A)

NOTE: Sound level data tested in accordance
with ISO6395, 6396, 3744.



Line drawings are for illustrative purpose only and may not be exact representation of unit.

DIMENSIONS

A. Height to top of ROPS cab	136.2 in (3 460 mm)
Height to drawbar	42.6 in (1 081 mm)
B. Wheelbase	131.5 in (3 340 mm)
C. Ground clearance	17.0 in (431 mm)
D. Angle of departure	29°
Width:	
Overall* without bucket	111.4 in (2 829 mm)
Tread width	87.8 in (2 230 mm)
Turning radius* – outside	236.3 in (6 003 mm)
Turning angle:	
From center	40°
Total angle	80°
Rear axle oscillation – total	24°

NOTE: *Dimensions taken with 23.5-R25 L3 Radial tires. Additional dimensions on pages 4 through 8.

WEIGHT ADJUSTMENTS

Select Options	Weight Adjustment	Tipping Load Adjustment Straight: Deflected*	Tipping Load Adjustment 40° Turn: Deflected*
23.5-R25 L2 Bias	-748 lb (-339 kg)	-610 lb (-277 kg)	-971 lb (-440 kg)
23.5-R25 L2 Radial tires	-28 lb (-13 kg)	-104 lb (-47 kg)	-133 lb (-60 kg)
23.5-R25 Snow Radial Tires	+52 lb (+24 kg)	+162 lb (+73 kg)	+166 lb (+75 kg)

NOTE: Unit equipped with Z-Bar loader arms, 4.25 yd³ (3.2 m³) general purpose pin on bucket with bolt-on edge, 23.5-R25 L3 Radial tires, ROPS cab with heater and air conditioner, heavy counterweight, heavy-duty batteries, front and rear fenders, full fuel and 165 lb (75 kg) operator. Adjust select options from rated weight.

*Tipping loads: ISO 14397-1 Deflected Tires.

PERFORMANCE SPECS

821G Z-Bar*		4.5 yd ³ (3.4 m ³) Bucket with Bolt-on Edge - Pin On	4.25 yd ³ (3.2 m ³) Bucket with Bolt-on Edge - Pin On	4.0 yd ³ (3.1 m ³) Bucket with Teeth - Pin On
Operating weight		40,123 lb (18 200 kg)	40,057 lb (18 170 kg)	39,916 lb (18 106 kg)
E.	Operating height – fully raised with spillguard	216.7 in (5 505 mm)	215.4 in (5 471 mm)	215.4 in (5 471 mm)
F.	Hinge pin height – fully raised	162.2 in (4 120 mm)	162.2 in (4 120 mm)	162.2 in (4 120 mm)
G.	Overall length – bucket level on ground	316.5 in (8 039 mm)	315.1 in (8 004 mm)	321.0 in (8 153 mm)
Dump angle – fully raised		55°	55°	55°
H.	Dump height – fully raised, 45° dump	116.5 in (2 958 mm)	117.3 in (2 981 mm)	113.6 in (2 885 mm)
J.	Bucket reach – fully raised, 45° dump	44.4 in (1 128 mm)	43.4 in (1 102 mm)	47.8 in (1 215 mm)
K.	Bucket reach – 7 ft 0 in (2.13 m) height, 45° dump	67.4 in (1 712 mm)	66.8 in (1 696 mm)	69.4 in (1 762 mm)
L.	Dig depth	3.1 in (78 mm)	3.1 in (78 mm)	3.1 in (78 mm)
Operating load – ISO Rigid Tires		13,342 lb (6 052 kg)	13,409 lb (6 082 kg)	13,625 lb (6 180 kg)
Operating load – ISO Deflected Tires		12,189 lb (5 529 kg)	12,257 lb (5 560 kg)	12,457 lb (5 650 kg)
Maximum material density – ISO Rigid Tires		2,965 lb/yd ³ (1 759 kg/m ³)	3,155 lb/yd ³ (1 872 kg/m ³)	3,406 lb/yd ³ (2 021 kg/m ³)
Maximum material density – ISO Deflected Tires		2,709 lb/yd ³ (1 607 kg/m ³)	2,884 lb/yd ³ (1 711 kg/m ³)	3,114 lb/yd ³ (1 848 kg/m ³)
Tipping load – ISO Rigid Tires:	Straight	32,245 lb (14 626 kg)	32,384 lb (14 689 kg)	32,870 lb (14 910 kg)
	40° turn	26,684 lb (12 104 kg)	26,819 lb (12 165 kg)	27,249 lb (12 360 kg)
Tipping load – ISO Deflected Tires:	Straight	30,231 lb (13 713 kg)	30,375 lb (13 777 kg)	30,829 lb (13 984 kg)
	40° turn	24,377 lb (11 057 kg)	24,515 lb (11 120 kg)	24,913 lb (11 300 kg)
Lift capacity:	Full height	21,913 lb (9 939 kg)	21,980 lb (9 970 kg)	22,138 lb (10 042 kg)
	Ground	40,294 lb (18 277 kg)	40,434 lb (18 341 kg)	40,760 lb (18 488 kg)
Breakout force with tilt cylinder		34,301 lb (15 559 kg)	35,288 lb (16 007 kg)	37,922 lb (17 201 kg)
Loader clearance circle with bucket		524.0 in (13 311 mm)	523.3 in (13 291 mm)	526.5 in (13 373 mm)

821G XR		4.5 yd ³ (3.4 m ³) Bucket with Bolt-on Edge - Pin On	4.25 yd ³ (3.2 m ³) Bucket with Bolt-on Edge - Pin On	4.0 yd ³ (3.1 m ³) Bucket with Teeth - Pin On
Operating weight		40,714 lb (18 467 kg)	40,648 lb (18 438 kg)	40,507 lb (18 373 kg)
E.	Operating height – fully raised with spillguard	234.1 in (5 946 mm)	232.8 in (5 912 mm)	232.8 in (5 912 mm)
F.	Hinge pin height – fully raised	179.6 in (4 561 mm)	179.6 in (4 561 mm)	179.6 in (4 561 mm)
G.	Overall length – bucket level on ground	335.6 in (8 525 mm)	334.3 in (8 490 mm)	340.1 in (8 638 mm)
Dump angle – fully raised		49°	49°	49°
H.	Dump height – fully raised, 45° dump	133.8 in (3 399 mm)	134.7 in (3 422 mm)	130.9 in (3 326 mm)
J.	Bucket reach – fully raised, 45° dump	48.9 in (1 241 mm)	47.8 in (1 215 mm)	52.3 in (1 327 mm)
K.	Bucket reach – 7 ft 0 in (2.13 m) height, 45° dump	84.6 in (2 150 mm)	84.0 in (2 132 mm)	86.8 in (2 205 mm)
L.	Dig depth	5.7 in (145 mm)	5.7 in (145 mm)	5.7 in (145 mm)
Operating load – ISO Rigid Tires		10,620 lb (4 817 kg)	10,678 lb (4 843 kg)	10,850 lb (4 922 kg)
Operating load – ISO Deflected Tires		9,803 lb (4 446 kg)	9,861 lb (4 473 kg)	10,024 lb (4 547 kg)
Maximum material density – ISO Rigid Tires		2,360 lb/yd ³ (1 400 kg/m ³)	2,512 lb/yd ³ (1 491 kg/m ³)	2,713 lb/yd ³ (1 610 kg/m ³)
Maximum material density – ISO Deflected Tires		2,178 lb/yd ³ (1 293 kg/m ³)	2,320 lb/yd ³ (1 377 kg/m ³)	2,506 lb/yd ³ (1 487 kg/m ³)
Tipping load – ISO Rigid Tires:	Straight	25,750 lb (11 680 kg)	25,870 lb (11 735 kg)	26,253 lb (11 908 kg)
	40° turn	21,239 lb (9 634 kg)	21,355 lb (9 687 kg)	21,701 lb (9 843 kg)
Tipping load – ISO Deflected Tires:	Straight	24,386 lb (11 061 kg)	24,508 lb (11 117 kg)	24,874 lb (11 283 kg)
	40° turn	19,605 lb (8 893 kg)	19,723 lb (8 946 kg)	20,049 lb (9 094 kg)
Lift capacity:	Full height	20,079 lb (9 108 kg)	20,146 lb (9 138 kg)	20,302 lb (9 209 kg)
	Ground	30,646 lb (13 901 kg)	30,790 lb (13 966 kg)	31,106 lb (14 110 kg)
Breakout force with tilt cylinder		34,876 lb (15 820 kg)	35,879 lb (16 275 kg)	38,553 lb (17 488 kg)
Loader clearance circle with bucket		543.4 in (13 804 mm)	542.5 in (13 780 mm)	546.4 in (13 879 mm)

821G		Z-Bar/XR	Z-Bar/XR	Z-Bar/XR
Maximum rollback:	Ground	41°/37°	41°/37°	42°/37°
	Carry position	45°/43°	45°/43°	45°/43°
	@ Full height	59°/60°	59°/60°	59°/60°
Maximum grading angle with bucket – back dragging		60°/63°	60°/63°	61°/64°
SAE bucket capacity – struck		3.78 yd ³ (2.89 m ³)	3.63 yd ³ (2.78 m ³)	3.44 yd ³ (2.63 m ³)
	Heaped	4.50 yd ³ (3.44 m ³)	4.25 yd ³ (3.25 m ³)	4.00 yd ³ (3.06 m ³)
Bucket width – outside		119.3 in (3 030 mm)	119.3 in (3 030 mm)	119.2 in (3 027 mm)
Bucket weight		3,464 lb (1 571 kg)	3,398 lb (1 541 kg)	3,256 lb (1 477 kg)

PERFORMANCE SPECS

821G Z-Bar*		4.0 yd ³ (3.06 m ³) Bucket with Bolt-on Edge - JRB Coupler	3.8 yd ³ (2.9 m ³) Bucket with Teeth - JRB Coupler	4.0 yd ³ (3.1 m ³) Bucket with Bolt-On Edge - ACS Coupler
Operating weight		41,430 lb (18 792 kg)	41,289 lb (18 728 kg)	41,483 lb (18 816 kg)
E.	Operating height – fully raised with spillguard	221.9 in (5 636 mm)	221.9 in (5 637 mm)	218.8 in (5 558 mm)
F.	Hinge pin height – fully raised	162.1 in (4 118 mm)	162.1 in (4 118 mm)	162.1 in (4 118 mm)
G.	Overall length – bucket level on ground	325.1 in (8 258 mm)	331.0 in (8 406 mm)	320.9 in (8 151 mm)
Dump angle – fully raised		55°	55°	55°
H.	Dump height – fully raised, 45° dump	110.9 in (2 817 mm)	107.1 in (2 721 mm)	113.6 in (2 886 mm)
J.	Bucket reach – fully raised, 45° dump	51.0 in (1 295 mm)	55.4 in (1 408 mm)	47.8 in (1 213 mm)
K.	Bucket reach – 7 ft 0 in (2.13 m) height, 45° dump	71.2 in (1 807 mm)	73.5 in (1 866 mm)	69.4 in (1 762 mm)
L.	Dig depth	3.1 in (79 mm)	3.2 in (80 mm)	3.1 in (79 mm)
Operating load – ISO Rigid Tires		11,830 lb (5 366 kg)	12,023 lb (5 454 kg)	12,170 lb (5 520 kg)
Operating load – ISO Deflected Tires		10,768 lb (4 884 kg)	10,947 lb (4 966 kg)	11,077 lb (5 024 kg)
Maximum material density – ISO Rigid Tires		2,958 lb/yd ³ (1 755 kg/m ³)	3,164 lb/yd ³ (1 877 kg/m ³)	3,042 lb/yd ³ (1 805 kg/m ³)
Maximum material density – ISO Deflected Tires		2,692 lb/yd ³ (1 597 kg/m ³)	2,881 lb/yd ³ (1 709 kg/m ³)	2,769 lb/yd ³ (1 643 kg/m ³)
Tipping load – ISO Rigid Tires:	Straight	28,844 lb (13 083 kg)	29,278 lb (13 280 kg)	29,661 lb (13 454 kg)
	40° turn	23,661 lb (10 732 kg)	24,046 lb (10 907 kg)	24,339 lb (11 040 kg)
Tipping load – ISO Deflected Tires:	Straight	27,004 lb (12 249 kg)	27,412 lb (12 434 kg)	27,762 lb (12 593 kg)
	40° turn	21,537 lb (9 769 kg)	21,894 lb (9 931 kg)	22,154 lb (10 049 kg)
Lift capacity:	Full height	20,513 lb (9 305 kg)	20,670 lb (9 376 kg)	20,500 lb (9 299 kg)
	Ground	28,363 lb (12 865 kg)	29,604 lb (13 428 kg)	32,373 lb (14 684 kg)
Breakout force with tilt cylinder		28,872 lb (13 096 kg)	30,698 lb (13 925 kg)	31,163 lb (14 135 kg)
Loader clearance circle with bucket		529.0 in (13 437 mm)	532.4 in (13 523 mm)	526.5 in (13 374 mm)

821G XR		4.0 yd ³ (3.06 m ³) Bucket with Bolt-on Edge - JRB Coupler	3.8 yd ³ (2.9 m ³) Bucket with Teeth - JRB Coupler	4.0 yd ³ (3.1 m ³) Bucket with Bolt-On Edge - ACS Coupler
Operating weight		42,021 lb (19 060 kg)	41,879 lb (18 996 kg)	42,074 lb (19 084 kg)
E.	Operating height – fully raised with spillguard	239.3 in (6 078 mm)	239.3 in (6 078 mm)	236.2 in (5 999 mm)
F.	Hinge pin height – fully raised	179.5 in (4 559 mm)	179.5 in (4 559 mm)	179.5 in (4 559 mm)
G.	Overall length – bucket level on ground	344.2 in (8 743 mm)	350.1 in (8 892 mm)	340.0 in (8 636 mm)
Dump angle – fully raised		49°	49°	49°
H.	Dump height – fully raised, 45° dump	128.3 in (3 258 mm)	124.5 in (3 162 mm)	131.0 in (3 327 mm)
J.	Bucket reach – fully raised, 45° dump	55.4 in (1 408 mm)	59.9 in (1 521 mm)	52.2 in (1 326 mm)
K.	Bucket reach – 7 ft 0 in (2.13 m) height, 45° dump	88.8 in (2 256 mm)	91.4 in (2 322 mm)	86.8 in (2 204 mm)
L.	Dig depth	5.8 in (146 mm)	5.8 in (147 mm)	5.8 in (146 mm)
Operating load – ISO Rigid Tires		9,382 lb (4 256 kg)	9,540 lb (4 327 kg)	9,613 lb (4 361 kg)
Operating load – ISO Deflected Tires		8,622 lb (3 911 kg)	8,771 lb (3 978 kg)	8,833 lb (4 007 kg)
Maximum material density – ISO Rigid Tires		2,346 lb/yd ³ (1 392 kg/m ³)	2,510 lb/yd ³ (1 490 kg/m ³)	2,403 lb/yd ³ (1 426 kg/m ³)
Maximum material density – ISO Deflected Tires		2,155 lb/yd ³ (1 279 kg/m ³)	2,308 lb/yd ³ (1 370 kg/m ³)	2,208 lb/yd ³ (1 310 kg/m ³)
Tipping load – ISO Rigid Tires:	Straight	23,007 lb (10 436 kg)	23,356 lb (10 594 kg)	23,569 lb (10 691 kg)
	40° turn	18,764 lb (8 511 kg)	19,079 lb (8 654 kg)	19,227 lb (8 721 kg)
Tipping load – ISO Deflected Tires:	Straight	21,745 lb (9 863 kg)	22,078 lb (10 015 kg)	22,272 lb (10 102 kg)
	40° turn	17,244 lb (7 822 kg)	17,541 lb (7 957 kg)	17,667 lb (8 013 kg)
Lift capacity:	Full height	18,692 lb (8 479 kg)	18,847 lb (8 549 kg)	18,674 lb (8 470 kg)
	Ground	28,087 lb (12 740 kg)	28,385 lb (12 875 kg)	28,592 lb (12 969 kg)
Breakout force with tilt cylinder		29,366 lb (13 320 kg)	31,221 lb (14 161 kg)	31,694 lb (14 376 kg)
Loader clearance circle with bucket		549.4 in (13 955 mm)	553.5 in (14 059 mm)	546.4 in (13 880 mm)

821G		Z-Bar/XR	Z-Bar/XR	Z-Bar/XR
Maximum rollback:	Ground	42°/37°	42°/37°	42°/37°
	Carry position	45°/43°	45°/43°	45°/43°
	@ Full height	59°/60°	59°/60°	59°/60°
Maximum grading angle with bucket – back dragging		62°/65°	64°/67°	61°/64°
SAE bucket capacity – struck		3.41 yd ³ (2.61 m ³)	3.25 yd ³ (2.48 m ³)	3.41 yd ³ (2.61 m ³)
	Heaped	4.00 yd ³ (3.06 m ³)	3.80 yd ³ (2.91 m ³)	4.00 yd ³ (3.06 m ³)
Bucket width – outside		119.3 in (3 030 mm)	119.2 in (3 027 mm)	119.3 in (3 030 mm)
Bucket weight		4,770 lb (2 164 kg)	4,629 lb (2 100 kg)	4,824 lb (2 188 kg)

NOTE: *Z-Bar performance data shown with full counterweight.

Performance data unit equipped with 23.5-R25 L3 Radial tires, ROPS cab with heater and air conditioner, full counterweight, standard batteries, front and rear fenders, full fuel and 165 lb (75 kg) operator. Specifications per SAE J732, J1234, J695, J742, and J818.

STANDARD EQUIPMENT

OPERATOR ENVIRONMENT

See page 1

ENGINE

CASE/FPT F4HFE613S
Tier 4 Final Certified
Selective Catalytic Reduction (SCR) with Diesel Oxidation Catalyst
Selectable work modes:
 Maximum Mode
 Smart Mode
Turbocharger
Charge air cooling
Automatic belt tensioner
Integral engine oil cooling
Fuel filter with water trap
Dual-element dry-type air cleaner
Hydraulic-driven cooling fan
Air-cooled radiator
Mid-mounted cooling module with hydraulically driven auto reversing fan
Engine block heater
Common rail electronic fuel injection

LOADER

See page 2 – Operating weight,
Other specifications

DRIVETRAIN

4-wheel drive
4F/3R Selectable autoshift/manual shift transmission
Electronic Control Module – programmable, computer controlled proportional shifting with programmable gear selection
Onboard diagnostics
Single lever electronic shift control
F/N/R switch in loader control handle
Downshift button
Torque converter
Limited-slip differentials
Outboard planetary axles
Transmission oil cooler
Brake pedal transmission disconnect – declutch
Hydraulic wet disc brakes
Spring-applied hydraulic release parking brake
Limp-Home Mode
Greaseable rear axle trunnion
3-piece rims

HYDRAULICS

Adjustable Electro-hydraulic - EH loader control with one auxiliary function and 3 configurable buttons
Adjustable EH settings:
 Smooth
 Moderate
 Aggressive
Auxiliary Hydraulics
Ride Control™
Locking hydraulics for coupler
EH Parallel Lift
Low-effort steering
Hydraulic driven cooling fan
Diagnostic quick couplers
Split flange hydraulic connections – 1 in or greater
Hydraulic oil cooler

ELECTRICAL

Alternator and voltage regulator
Battery isolator/electrical disconnect
120 amp alternator
(2) 700 CCA 12-volt batteries
Electric starter
Lights:
 Integrated 4-corner strobe
 2 Front and 2 rear halogen flood lights
 2 Front driving headlights – high/low beam with integrated turn signals
 2 LED stop/tail lights with integrated turn signals
Key start/stop switch
Backup alarm
Centrally located fuse box with all electrical circuits protected
Remote jump start posts

OTHER

Electric hood lift
Front and rear fenders, partial coverage
External rear view mirrors
Heavy counterweight
Drawbar hitch
Articulation locking bar
Lift arm locking bar
Lift and tie-down points – front/rear
Rear frame side covers
License plate brackets; front bracket and lit rear bracket
Rubber steering stops
Grouped remote-mounted ecology drains:
 Engine oil
 Engine coolant
 Hydraulic oil

TELEMATICS

CASE SiteWatch™ Telematics – includes hardware and a 3-yr Advanced data subscription
SiteConnect Module providing remote diagnostics capability

OPTIONAL EQUIPMENT

OPERATOR ENVIRONMENT

Cloth-covered heated air-suspension seat with headrest
Sound Shield noise suppression package
Bluetooth radio, 12V AM/FM with auxiliary input
Cab convenience package:
Rear sun shade, interior mirror, under the seat drawer, coat hook, 12V accessory port, and an ash tray
In cab powered cooler box
In cab accessory mount
Rear view camera
External heated rear view mirrors
Front LED driving/headlights
LED front and rear work lights – 4 front, 2 rear

DRIVETRAIN

5F/3R Autoshift/manual shift transmission, lockup torque converter, PowerInch de-clutch
Heavy-duty axles:
With locking front differential and open/conventional rear differential
Cold weather package:
Heavy-duty (2) 950 CCA 12V batteries
Fuel heater
Hydraulic oil cooler bypass
Low temperature hydraulic oil
Fast-warm hydraulic valve

HYDRAULICS

Secondary steering
Integrated Payload System
Tire Pressure Monitoring System
2-function loader valve with joystick loader control
4-function loader valve with joystick loader control and two proportional auxiliary roller switches

LOADER

XR extended reach version
Attachment auxiliary hydraulics
Coupler systems – JRB or ACS compatible
Buckets – see pages 4 through 6

TIRES

23.5 x 25 L2 bias – dirt/traction
23.5 x 25 L3 bias – rock
23.5-R25 L2 radial – dirt/traction
23.5-R25 L3 radial – rock
23.5-R25 radial Michelin SnoPlus
Axle oscillation stops

ADVANCED ENGINE AIR FILTRATION

Sy-Klone® ejector type pre-cleaner

OTHER

Additional RH steps and platform with standard or wide fenders
12.4 mph (20 kph) maximum speed control
Special paint
Skid plate and transmission
Standard fenders with right and left hand steps
Wide full coverage fenders with right and left hand steps

CaseCE.com

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IMPORTANT: CASE Construction Equipment Inc. reserves the right to change these specifications without notice and without incurring any obligation relating to such change. Availability of some models and equipment builds vary according to the country in which the equipment is used. The illustrations and text may include optional equipment and accessories and may not include all standard equipment. Your CASE dealer/distributor will be able to give you details of the products and their specifications available in your area.



CASE Construction Equipment is biodiesel-friendly. NOTE: All engines meet current EPA emissions regulations. All specifications are stated in accordance with SAE Standards or Recommended Practices, where applicable.

Always read the Operator's Manual before operating any equipment. Inspect equipment before using it, and be sure it is operating properly. Follow the product safety signs and use any safety features provided.

Form No. CCE202104821G
Replaces Form No. CCE201910821G

821G

70229



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		November 6, 2023					
Item Name:		Growth Area Feasibility Study					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):							
Item Type (X only one):	Consent		Regular Session	X	Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-241, Authorizing Southeast Area Feasibility Study							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
During work session the City Council reviewed sketch plan for future development potential in the south east area of the community and are scheduled to review another sketch plan for development potential in the eastern portion of the community. These two areas are within the 2040 growth boundary as identified in the 2040 Comprehensive Plan but reflect a different type of development for the community that has been experienced in recent years. Both of these areas are outside of easily serviceable areas adjacent to existing utilities and or lift stations and also incorporate some significant future transportation corridors identified in the community. These areas and beyond would require substantial infrastructure development to be considered by the city in order to develop. The infrastructure necessary would also serve a much broader area than those anticipated by the sketch plans under review. The City Council discussed a desire to better understand infrastructure needs, planning, and potential costs associated with growth to the east and southeast. It was recommended by staff that a feasibility study in these areas be completed to better provide information to the City Council regarding development capacities, demand on services and capabilities for service. Consultant Engineer, Jake Saulsbury has reviewed existing studies and comprehensive plan information and has prepared the attached proposal for City Council consideration to complete this effort. The anticipated cost is \$75,000 and about 500-550 staff hours to complete.							
Attachments:							
1. 2023-241_SE_Area_Feasibility_Study.doc 2. Southeast Area Feasibility Study.pdf							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Budget Information: ☐ Budgeted ☐ Non Budgeted ☐ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-241**

**RESOLUTION AUTHORIZING FEASIBILITY STUDY FOR THE EAST AND SOUTHWEST
GROWTH AREAS**

WHEREAS, the City of Waconia has identified areas to the east and south east of the existing city limits for future development as part of the 2040 Comprehensive Plan; and

WHEREAS, to better define and understand the impact of development, capacities, and infrastructure necessary to support development; and

WHEREAS, to define the appropriate investment and cost apportionment rational for public investments in these areas a feasibility study is recommended; and

WHEREAS, the city's consultant engineer, Bolton & Menk, has provided a scope of work to complete this study at an estimate cost of \$75,000.00

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby authorizes the commencement of the Southeast Area Feasibility Study as proposed.

Adopted by the City Council of the City of Waconia this 6th day of November 2023.

Nicole Waldron, Mayor

Attest: _____
Jacqueline Schulze, Assistant City Administrator



Real People. Real Solutions.

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Fax: (952) 448-8805
Bolton-Menk.com

November 1, 2023

City of Waconia
Attn: Shane Fineran
201 South Vine St.
Waconia, MN 55387

RE: Southeast Area Development Feasibility Study

Dear Mr. Fineran:

Bolton & Menk is pleased to provide you with this scope and fee estimate for professional services for the development of the Southeast Area of the City. Our team of experienced engineers, planners, and technicians are prepared to take on this project to help the City guide future development and make informed decisions. Below we have described our project understanding, detailed our estimated scope of work, and provided an estimated fee for the project.

Project Understanding

The City of Waconia and Carver County have several previous projects and studies that impact the Southeast Area of the City. These items include, but are not limited to, the following:

- 2040 Comprehensive Plan Updates (City & County)
- 2014 & 2016 Sanitary Sewer Planning Updates (City)
- 2020 CSAH 92 Corridor Study (City & County)
- 2023-24 CSAH 92 / Airport Road Alignment & Profile Preliminary Design (County)
- 2010 Water Model Update (City)
- 2020 Surface Water Management Plan (City)
- 2023 Concept Plan Submittals for the Kirsh Property and the Falk/Saltire Property (City)
- Various Project & Development As-Builts (City & County)

Our goal is to take the framework established by these various studies and plans, and to allocate costs for the future buildout of the Southeast Area.

Scope of Work

In accordance with the City's request, Bolton & Menk proposes to complete the following scope of work to provide a Feasibility Study for the Southeast Area of the City. This area consists of the development area included in the current Comprehensive Plan as well as the applicable remaining area in the Laketown Township orderly annexation area.

Task 1: Project Initiation / Information Gathering

- + Understand project background and the information outlined by the various planning studies and construction projects in the area.
- + Review City utility base mapping and as-builts / record drawings to determine existing utilities and connection points.
- + Review and establish planned roadway alignments.

- + Review topographic data and confirm sanitary sewer lift station locations.
- + Review soils maps and wetland data to assist with roadway and trunk utility layouts.
- + Identify parcel lines, property ownership, and previously platted right-of-ways.
- + Compile data from various state, county, and local GIS databases.

Task 2: System Layouts & Analysis

- + Determination of buildable areas for each parcel.
- + Confirmation of sanitary sewer layout and determination of sub-service areas.
- + Review of the remaining capacity of existing sanitary sewer lines planned to be connected to.
- + Review of land use plan to calculate densities and units / acre for each parcel.
- + Determination of appropriate pipe sizes for sanitary sewer and watermain.
- + Review of the Water Model and estimation of fire flows for the growth area.
- + Review of roadway layouts, both Carver County highways and major local roadways.
- + Determination of roadway sections (urban or rural, pavement width, pavement thickness, etc.).
- + Determination of roadway right-of-ways.
- + Determination of approximate stormwater ponding locations and sizes.
- + Recommendations for interim utility and/or roadway improvements.

Task 3: Costs & Apportionment

- + Completion of cost estimates for trunk sanitary sewer and watermain facilities.
- + Determination of oversizing for trunk sanitary sewer and watermain facilities.
- + Completion of cost estimates for roadway and stormwater management facilities.
- + Allocation of costs based on planned units for sanitary sewer and watermain improvements.
- + Allocation of costs based on estimated trip generations for roadway improvements.
- + Determination of planned assessments vs. future availability charges.

Task 4: Report & Meetings

- + Completion of maps/figures for all of the system layouts described above.
- + Tabulation of all properties and the costs allocated to those properties.
- + Meetings with the City Council, City staff, Carver County staff, & applicable Developers.
- + Preparation of a Feasibility Study containing all of the project information and recommendations.

Estimated Fees

Bolton & Menk estimates 500-550 hours for staff time consisting of 10-12 professional staff members is necessary to complete the above scope of work for the Southeast Area Development Feasibility Study. The estimated fee to complete this Feasibility Study is \$75,000.

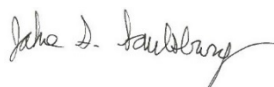
Project Schedule

The Bolton & Menk team is fully committed to completing the Feasibility Study in a timely manner in order to accommodate potential development in 2024.

Please contact me if you have any questions regarding this scope and fee estimate for this potential project.

Respectfully Submitted,

Bolton & Menk, Inc.



Jake Saulsbury, P.E.