

WACONIA CITY COUNCIL MEETING AGENDA



Monday, June 5, 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**
 - State of the Library - Jody Edstrom & Paul Ericsson
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) [May 15, 2023 City Council Meeting Minutes](#)
Approve May 15, 2023 City Council Meeting Minutes
- 2) [June 5, 2023 Expenditures](#)
Payment of June 5, 2023 Expenditures
- 3) [Contractor Pay Request #8 - New Fire Station](#)
Motion to Approve Contractor Payment Request for the New Fire Station Project
- 4) [Contractor Pay Request #1 - Waconia Downtown Reconstruction - Phase 1](#)
Motion to approve pay estimate No. 1 to GMH Asphalt, Inc. for the Waconia Downtown Reconstruction - Phase 1

- 5) [Call Public Hearing - Revision to City's Fee Schedule : Waconia City Code - Chapter 1100](#)
Motion to Call a Public Hearing - Revision to City's Fee Schedule: Waconia City Code - Chapter 1100
- 6) [Track Flooring Replacement - Safari Island Community Center](#)
Adopt Resolution 2023-88, Approving Capital Project at the Safari Island Community Center to Replace Track Flooring
- 7) [Special Event Permit - Lake Waconia Band Festival](#)
Adopt Resolution 2023-130, Approving Special Event Permit for the Lake Waconia Band Festival and practices.
- 8) [Carver County CDA Community Growth Partnership Initiative Grant](#)
Adopt Resolution 2023-131, approving application for the Carver County CDA Community Partnership Initiative Grant.
- 9) [Woodland Creek 5th Addition - Development Agreement](#)
Adopt Resolution 2023-132 approving the Development Agreement for Woodland Creek 5th Addition.
- 10) [Approve Contract with Youth Sports Plus for Waconia Ice Arena](#)
Adopt Resolution 2023-133, Approving Contract with Youth Sports Plus for Waconia Ice Arena
- 11) [Authorize Hire for Finance Clerk](#)
Adopt Resolution 2023-134, Approving Finance Clerk Hire.
- 12) [Donation Acceptance & Pass Thru Recommendation - Cash Donation for Fire Safety & Prevention Efforts](#)
Adopt Resolution 2023-135, Accepting Cash Donations for Fire Safety and Prevention Efforts and Approving Pass Thru to the National Fire Safety Council
- 13) [Donation Acceptance - Cash Donation for Maintenance of City Public Cemetery](#)
Adopt Resolution 2023-136, Accepting Cash Donation for Maintenance of City Public Cemetery
- 14) [Acceptance of Grant Proceeds from Board of Water & Soil Resources - Downtown Storm Water Reuse Improvement](#)
Adopt Resolution 2023-137, Accepting Grant Proceeds from Board of Water & Soil Resources - Downtown Storm Water Reuse Improvement

6. COUNCIL BUSINESS

- 1) [Purchase Agreement with Amcon Outland, Inc. for a portion of 150 Sparrow Road](#)
Adopt Resolution 2023-139 approving the attached purchase agreement between the City of Waconia and Amcon Outland, Inc. for a portion of the property located at 150 Sparrow Road.
- 2) [Authorize Obtaining Quotes for Storm Sewer Improvements](#)
Adopt Resolution 2023-140; Authorizing Obtaining Quotes For Olive & Elm Street Alley Improvements

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 Music in the Park - Tricia & The Toonies 7:00 p.m. Movie in the Park - Encanto

11. ADJOURN REGULAR MEETINGOFFICE OF THE CITY ADMINISTRATOR

Shane Fineran

Work Session: School Resource Officer Partnership, Source Water

UPCOMING CALENDAR OF EVENTS/MEETINGS:

Park Board - June 15th at 6:30 p.m.

City Council - June 20th at 6:00 p.m.

City Council - July 3rd ****CANCELLED****



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		May 15, 2023 City Council Meeting Minutes					
Originating Department:		Administration					
Presented by:		Ann Meyerhoff					
Previous Council Action (if any):							
Item Type (X only one):	Consent	☒	X	Regular Session	☐	Discussion Session	☐
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED (Include motion in proper format.)							
Approve May 15, 2023 City Council Meeting Minutes							
EXPLANATION OF AGENDA ITEM (Include a description of background, benefits, and recommendations.)							
Attachments: 1. 5-15-2023 Minutes.pdf							
FINANCIAL IMPLICATIONS: Funding Sources & Uses:			ADVISORY BOARD RECOMMENDATIONS:				
Budget Information: _____ Budgeted _____ Non Budgeted _____ Amendment Required			Planning Commission				
			Parks and Recreation Board				
			Safari Island Advisory Board				
			Other				

CITY OF WACONIA
May 15, 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: None

2) [PLEDGE OF ALLEGIANCE](#)

3) [ADOPT AGENDA](#)

Motion by Sorensen, seconded by Grengs 3) ADOPT AGENDA
MOTION carried

4) [VISITOR'S PRESENTATIONS, PETITIONS, CORRESPONDENCE](#)

Ned Rupp, 1660 Hwy 100 Suite 330, Minneapolis, Approached Council as a representative for the owners of Waconia Square. He asked for consideration in allowing a Tech Recycling Center at Waconia Square.

5) [ADOPT CONSENT AGENDA](#)

5.1 May 1, 2023 Regular City Council Meeting Minutes

[Cover Page](#)

[05-01-2023 Minutes.pdf](#)

5.2 May 15, 2023 Expenditures

[Cover Page](#)

[Council List_Expenditures 05.15.23_Regular.pdf](#)

[Council List_Expenditures 05.15.23_Purchasing Card.pdf](#)

[Council List_Expenditures 05.15.23_Other Electronic.pdf](#)

5.3 Rink Management Services Corporation Safari Island Community Center
Expenditures Incurred April 2023

[Cover Page](#)

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

- 5.4 Rink Management Services Corporation Waconia Ice Arena Expenditures
Incurred April 2023

[Cover Page](#)

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

- 5.5 Contractor Pay Request #2-Final - City Square Park Retaining Wall & Sidewalk

[Cover Page](#)

[2023-05-02 City Square Park Ret Wall #2.pdf](#)

- 5.6 Kraus Anderson Contractor Pay Request - New Fire Station

[Cover Page](#)

[Kraus Anderson Insurance Proposal 2023-2024.pdf](#)

- 5.7 Contractor Pay Request #6 - Waterford Park - Water Reuse Station Project

[Cover Page](#)

[2023-05-09 Waterford Reuse Payment #6.pdf](#)

- 5.8 Use of Park: Waconia Library - Storywalk

[Cover Page](#)

- 5.9 Parade Permit - Memorial Day Parade

[Cover Page](#)

[23127res_Memorial_Day_Parade_Permit.doc](#)

[Memorial Day Parade.pdf](#)

- 5.10 League of Minnesota Cities Insurance Trust - Tort Liability Waiver - 2023-2024
Policy Renewal

[Cover Page](#)

[Liability-Coverage-Waiver-Form \(1\).pdf](#)

- 5.11 Cigarette License for Casey's

- [Cover Page](#)
- [23115res Cigarette License for Casey's.docx](#)
- 5.12 Authorize Hire for Utility Maintenance Worker
- [Cover Page](#)
- [23116res_Appointment_of_Utility_Maintenance_Worker \(1\).docx](#)
- 5.13 Authorize Hire for Street Maintenance Worker
- [Cover Page](#)
- [23117res_Appointment_of_Street_Maintenance_Worker.docx](#)
- 5.14 Probationary Firefighters to Active Status
- [Cover Page](#)
- [23118res Active_FF_Status_-_Resolution.docx](#)
- 5.15 2023 2nd Quarter Budget Amendments
- [Cover Page](#)
- [23119res-Budget_Amendment_master \(3\).doc](#)
- [Budgement Amendments_Exhibit A.pdf](#)
- 5.16 Carver County CDA Community Growth Partnership Initiative Grant
- [Cover Page](#)
- [23120res_CDA_CGPI_Trails_Edge_Senior.doc](#)
- [2023 CGPI Trail's Edge Senior.pdf](#)
- 5.17 Performance Measures and Report for 2022
- [Cover Page](#)
- [Re23121res_Performance_Measures_OSA.docx](#)
- [Annual Performance Measures Data 22.pdf](#)

- 5.18 Authorize Hire for Park Maintenance Worker & Authorize Recruitment for Vacancy

[Cover Page](#)

[23122res_Appointment_of_Park_Maintenance_Worker.docx](#)

- 5.19 Approval and Award of 2023 Downtown Lighting Improvement Costs

[Cover Page](#)

[23123res_Downtown_Lighting_CIP_Project_128.doc](#)

[Fixture Bid Sheet CIP Project 128.pdf](#)

[Installation Bid Sheet CIP Project 128.pdf](#)

- 5.20 Façade Improvement Grant - Mocha Monkey

[Cover Page](#)

[23128res_Facade_Improvement_115_S_Olive.docx](#)

[Facade Improvement.Mocha Monkey 5.11.23.pdf](#)

Motion by Sorensen, seconded by Yetzer 5) ADOPT CONSENT AGENDA

MOTION carried

6) COUNCIL BUSINESS

- 6.1 New Firefighter Oath & Badge Pinning

[Cover Page](#)

Mayor Waldron swore in Aaron Jurek and Michael Eaton as Active Firefighters.

- 6.2 2022 Audited Annual Comprehensive Financial Report

[Cover Page](#)

[23124res_2022_Audit.doc](#)

Nicole Meyer shared that City Staff and the auditing firm of Redpath and Company have concluded the audit fieldwork and have prepared the City of Waconia Annual Comprehensive Financial Report for the year ending December 31, 2022.

Andy Hering for Redpath and Company provided a presentation of the final reports and audit results. Due to the length of the financial statement, a copy of the Annual Comprehensive Financial Report was provided to the City Council prior to the meeting under separate cover. The reports provided by Redpath and Company included Internal Control, Minnesota Legal Compliance, and Communication with Those Charged with Governance. The reports show that the City did not have any internal control of compliance findings in 2022. A copy of the reports are available for review by the public at City Hall.

Staff will post a copy of the report on the City's website, forward a copy to the Office of the State Auditor and the Government Finance Officers Association for consideration for the Excellence in Financial Reporting Certificate.

Motion by Grengs, seconded by Gleason Adopt Resolution 2023-124, Accepting Audited Annual Comprehensive Financial Report as of December 31, 2022

MOTION carried

6.3 Consider the Issuance and Sale of \$4,295,000 General Obligation Bonds, Series 2023A-2023 Infrastructure Improvement Project and Equipment Purchases

Cover Page

[23125res Waconia_2023A_Resolution_for_Council_Packets.docx](#)

[2023A Debt Issuance_Exhibit A.pdf](#)

Nicole introduced Todd Hagen from Ehlers to talk about the Sale Day Report, bond bids, and final results.

Hagen introduced the Sale Day Report and explained that the purpose is to finance with other available funds, for the construction of various street and utility system improvements and the acquisition of various capital equipment for the City. He summarized the Sale Day Report and noted there were no major shifts from the last rating which was AA+ with stable outlook.

6 bids had been received with the low bidder being TD Securities (USA) LLC, New York, New York. After bid opening, the issue size was decreased by \$370,000 due to a reduction in the costs of issuance and underwriter's discount, and the receipt of premium bid. The closing date for the sale will be June 1, 2023.

Motion by Yetzer, seconded by Grengs Adopt Resolution 2023-125, Providing for the Issuance and Sale of \$3,925,000 General Obligation Bonds, Series 2023A, Pledging for the Security Thereof Net Revenues, Special Assessments, and Levying a Tax for the Payment Thereof

MOTION carried

6.4 Wildcat Way Options

[Cover Page](#)

[1997 Aerial.pdf](#)

[2022 Aerial.pdf](#)

[Pages from Feasibility Study \(002\).pdf](#)

[Pages from 1999 Construction Plans](#)

[Pages from 2020 Project Geotech Report.pdf](#)

[Hillman Correspondence.pdf](#)

[Country Ponds Resident Feedback.pdf](#)

Shane Fineran stated that Wildcat Way and Community Drive were initially developed as part of the school campus development area that saw the construction of what was then known as Clearwater Middle School, now Waconia High School, and the Safari Island Community Center. Prior to this point access into the now middle school campus area was a driveway access onto Oak Avenue.

The development was approached a little differently by the city and school in which it was more of a joint/cooperative venture with the construction of the Safari Island Community Center as part of the project. This in comparison to the traditional city/developer type relationship which we now operate, and in which the high school campus expansion project was developed under later. In the traditional model the appropriate right of way or easement is provided and conditioned via development agreement and City Council approval. Thus, no formal development agreement was executed between the city and school district as part of the construction of the original middle school/Safari Island Community Center expansion.

As part of the transportation feasibility study completed prior to the original campus expansion project in 1999, the development of a new east/west connector street to Oak Avenue and north/south private drive to Pond Lane was recommended to serve the development area. Community Drive is the east/west connector, and the north/south private drive is Wildcat Way. The provision of deeds and/or easements of the Community Drive segment, which is contained on school district property was also noted in the operating lease for the Safari Island Community Center between the school district and the city. These easements were ultimately executed and recorded in 2009. The most recent traffic count information was collected in November of 2020. Community Drive saw an average of 507 trips per weekday and Wildcat Way saw an average of 417 trips per day.

Wildcat Way is contained on city property and in review of documents, easement granted by the city to the school district for this private drive was drafted in 2001, which provided for maintenance of this private drive to be the responsibility of the school district. Ultimately, based on recollection of the city attorney, this was rejected by the school board at that time.

As indicated by the record plans available Wildcat Way was not built to a typical standard city street Section. The road base is comprised of 4" of bituminous, 8" of aggregate, and 12" of sand compared to 4.5 bituminous, 6" of aggregate, 12" of sand plus geotextile fabric and drain tile. A standard truck route increases the depth of construction materials. Over the years data has been collected on the segment via soil borings and show only 3.5' to 4.5" of bituminous over minimal aggregate. The subgrade is substandard and portions of the segment also include organic material which would need to be removed and drainage greatly improved via drain tile and storm sewer to properly support a roadway.

Fineran presented Council with the following options:

The Subgrade of Wildcat Way is poor, and a long-lasting permanent fix in which the subgrade is significantly enhanced would be the proper way to repair this street segment, albeit at significant expense, estimated at \$650,000. The city could also consider temporary repairs such as reclaiming the street surface, repaving, and some minor drainage improvements as rehabilitation, but this would be done with the knowledge that the longevity of the street segment would be limited.

Since the street segment sits wholly on municipal property and no rights or easements are granted to another party the City also has the option to close the street and it would be recommended to tear up the surface and curbing, and re-establish to turf. Removals and re-route of some storm sewer and street lighting electrical would also be necessary and reconstruction of some of the pedestrian facilities in the area would also be recommended. Access would need to be maintained from the south into the parking lot that serves the park and baseball facility. Estimate for this effort is approximately \$183,000 and it would be recommended to scope and bid as part of a larger construction project to gain efficiencies and economy of scale.

Council had a discussion and unanimously agreed to close Wildcat Way.

Motion by Yetzer, seconded by Gleason to close Wildcat Way.

MOTION carried.

6.5 Variance - 40 Lake Street East - Andrew Vasek

Cover Page

23126res Lake Street Variance.docx

[Applicant Narrative \(2 Pages\)](#)

[Proposed Survey 5-8-23 \(1 Page\).pdf](#)

[DNR natural buffer guidelines \(4 Pages\)](#)

Ethan Nelson stated that the City has received a variance application from Adrew Vasek, on behalf of Chris and Leah Stickney, requesting approval of a variance to construct a porch addition that would be located on the rear portion of the principal structure. The applicant is proposing the porch addition and other site modifications that would result in a proposed impervious surface of approximately 26.9% versus the maximum 25% allowed in the Shoreland Overlay District. The applicants indicated the variance is necessary due to the existing portion of the structure being inadequate and unsafe.

The subject property currently includes an existing principal structure that was completed April 24, 2002 after the previous home was demolished. In addition to the principal structure, site improvements have been made throughout the subsequent years including a driveway accessing Lake Street East, a sidewalk and small patio from the front driveway to the front porch, a driveway and sidewalk that faces and extends into the right-of-way to the east, concrete patios/pavers, a shed and improvements within the Shore Impact Zone that contain a gazebo and additional concrete area. The rear façade of the principal structure has a 112 sq. ft area on the north-west corner that was not improved with hardcover, as indicated in the Certificate of Survey.

Based upon the historical aerial imagery, City records, and the Certificate of Survey provided by the applicant, staff have reviewed hardcover improvements that have been made since the new home was completed in 2002 to the present date. These areas include a minor expansion to the sidewalk to the front porch installed between 2008-2011. A sidewalk that starts in the front yard of the property in the southeast and then continues on the east side of the house which partially extends beyond the property line that was improved between 2014-2016. A driveway that connects to the attached garage on the rear portion of the principal structure. The aforementioned driveway/parking pad also partially extends beyond the property line. This improvement was likely done between 2019-2020. The patio adjacent to the rear façade of the home appears to have been installed and expanded between 2017-2020. The existing rear yard shed located .8 ft. away from the neighboring property line and the Gazebo located in the Shore Impact Zone appear to have been on the subject property since at least 2008, however staff is unable to determine when both structures were installed.

The proposed porch would improve the aforementioned 112 sq. ft. area to impervious surface and the applicant is proposing to remove 500 sq. ft. of patio directly next to the north façade and restore the shoreline per the attached site plan. Nelson shared the existing lot circumstances, legal nonconformities and proposed changes to the lot conditions.

The Planning Commission initially tabled the application and required the applicant to submit a landscaping plan that included shoreline restoration and included additional hardcover removals. Based on the review and recommendation of the Planning Commission the applicant submitted a revised stormwater plan dated May 8, 2023. The submitted revised plan is consistent with the Planning Commission recommendation of additional hardcover removals, relocation of the existing gazebo to a conforming location, and restoration of a specific area of the Shore Impact Zone. The Planning Commission, after reviewing the pertinent information recommended approval with 5 conditions.

Steve on east side of property showing items outside of property. Is that allowed. Access to the lake.

Chris & Leah Stickney, homeowners, approached the Council and asked for feedback on moving the Gazebo and planting wildlife per DNR guidelines. They asked for consideration in not moving the Gazebo but removing the patio in front of it. The Gazebo is within the DNR guidelines of 15 feet not the Cities of 25 feet.

Council Member Gleason asked if this was discussed with planning commission? Nelson responded that it was and the goal was to pull everything out of the shore impact zone.

Council member Yetzer expressed that he felt with everything the homeowners have shown there should be a little give and take. Yetzer also commented that other lake front properties do not have native and/or natural vegetation.

Yetzer made a motion striking recommendation number 2 and 4 from the resolution. Shane Fineran summarized that the motion would be to not have any restoration of the shoreline and not moving the Gazebo.

Mayor Waldron expressed concern with taking out recommendation number 2. There needs to be some restoration of the shoreline.

Motion failed for lack of a second.

Council Member Sorensen believes that Council needs to follow our policies that we have in place and circumvent that.

Motion by Yetzer , seconded by Grengs Adopt Resolution 2023-126, approving the variance to construct a porch addition and make site improvements that would exceed the 25% maximum hardcover allowed in the Shoreland Overlay District with recommendation that the applicant submit a landscape plan that details the restoration of the disturbed shoreline and remove recommendation to move the gazebo.

MOTION carried

[6.6 Ordinance Amendment regarding Section 571 and Section 572](#)

Cover Page

23112res_Chapter_571_Summary_Publication_Resolution__Draft_04-24-2023_.docx

Ord_758_Chapter_571_Chicken_Ordinance_Amendment__Draft_04-24-2023_.docx

23113res_Chapter_572__Summary_Publication_Resolution__Draft_04-24-2023_.docx

Ord_759_Chapter_572_Bee_Ordinance_Amendment__Draft_4-24-2023_.docx

Chapter 571 Chickens (Original v. 04-24-2023 REDLINE).pdf

Chapter 572 Bees (Original v. 04-24-2023 REDLINE).pdf

Ethan Nelson indicated that Staff is proposing amendments to Chapter 571 and Chapter 572, Chicken and Bee Regulations along with accompanying Chapter 710 regarding Public Peace and Safety and Chapter 1100, Fees. The intent of these revisions originates from Staff's desire to simplify both Chicken and Bee Regulatory and financial burden on the City and license holders that reside in City limits.

The most significant change is the revision of a required annual license to a one time license review fee and allow the property owner to maintain chickens and bees unless revoked or transferred.

Motion by Gleason, seconded by Sorensen Adopt Ordinance No. 758 approving amendments to Section 571 Chickens and applicable sections of Section 710 and Section 1100.

MOTION carried.

Motion by Gleason, seconded by Grengs Adopt Resolution 2023-112 approving Summary Publication of the amendments to Section 571, Section 710 and Section 1100.

MOTION carried.

Motion by Gleason, seconded by Yetzer Adopt Ordinance No. 759 approving amendments to Section 572 Bees and applicable sections of Section 710 and Section 1100.

MOTION carried.

Motion by Gleason, seconded by Grengs Adopt Resolution 2023-113 approving Summary Publication of the amendments to Section 572, Section 710 and Section 1100.

MOTION carried

6.7 Pedestrian Amenity Discussion – Interlaken Village Commercial Development in Association with Twin Cities Orthopedic Future Expansion at 820 Village Way

[Cover Page](#)

[Location Map_TCO.pdf](#)

[TCO Expansion Project Plan.pdf](#)

[Site Amenity Narrative.pdf](#)

[Public Pedestrian Amenity Plan.pdf](#)

[Original Pedestrian Amenity Package_Interlaken Village Commercial.pdf](#)

Lane Braaten shared that City Council, on May 1, 2006, adopted Resolution 2006-103 conditionally approving the preliminary plat of Interlake Village. The Interlaken Village preliminary Plat consisted of 40 acres, which included 9 lots. Lot 1 was developed as a Target Store, and Lots 2 through 9 were guided as development pads for free-standing structures that would support uses allowed in the B-1, Highway Business District. Concurrent with the filing of the Interlaken Village Final Plat, the property owner and the City entered into a Developer's Agreement for Interlaken Village which required future phases to meet specified requirements. Specifically, the development agreement required that the owner of Outlot A, which is all of the property located north of Village Way, to substantially construct the pedestrian corridor identified in the agreement as the "Interlaken Village Site Plan". Braaten share images.

The development agreement further indicated that the improvements would be required as depicted unless the City agreed to an alternate plan. With the initial approval of the Twin Cities Orthopedic (TCO) building at 820 Village Way it was anticipated that an alternate plan may be necessary based on the actual vs. planned growth of the area. So, last month, TCO submitted a revised site plan that included further subdivision/platting of the property and staff reminded both the current property owner and TCO that the required public improvement plan would need to be addressed prior to consideration of any further land use applications. As such, TCO has submitted a revised draft portion of the required improvements.

Staff has had some conversation with the underlying property owner for the remaining outlots and have reminded them that the possible approval by the Council of the TCO public improvements would not preclude the remaining outlots from constructing and installing additional improvements on the remaining undeveloped sites. They are aware of this requirement but were hesitant to provide a fully revised plan that included these sites as they are not sure how they will develop in the future, especially with all of the TCO expansion in the area. They are aware a plan will need to be submitted for review and consideration as each of these properties are developed.

Keith Hiemer and Denton Mack shared that they are trying to create a space to tie in with the other properties and a nice place for employees or patients to use. TCO would be responsible for maintaining everything.

Mayor Waldron expressed that with TCO maintaining the project she would be in favor of this.

Motion by Grengs, seconded by Sorensen Motion indicating the proposed pedestrian improvements associated with the Twin Cities Orthopedic site plan and subdivision applications for the property are consistent with the original Interlaken Village Developer's Agreement.

MOTION carried

[6.8 Maple & Main Intersection Removals](#)

[Cover Page](#)

[Aerial of Maple and Main.pdf](#)

Craig Eldred stated that staff reviewed items relevant to removals, redefining, and improvement costs associated with the storm water rain garden bump outs at the intersection of South Maple Street and West Main Street at the request of Council. Historically, the best management practices were constructed as efforts to reduce pollutant run-off to Lake Waconia. The City received volume, total phosphorus and total suspended solid reductions for improvements at the intersection in the amount of 1,353 credits as part of the 2014 Improvement Project.

The City Engineer quantified the removal impacts of the rain gardens at the 1,353 credits, which removal would necessitate an additional 56 credits upon removal. Therefore, the total would be 1,409 credits with this volume being placed upon an off-site watershed at a value of 2,818 credit impact on the Hunter's Crossing Filter Basin places it in a negative balance for total suspended solids at -40 credit balance without factoring in our 2022 and 2023 Improvement Projects. The valuation calculated for the filter bench equates to \$62.18 per lineal foot/credit, or a value of \$105,704.00.

Removal and reconstruction estimate to \$462,313.00. Impacts are associated to rain garden, lighting, concrete and asphalt removals. Replacement items include lighting, concrete curb and sidewalk, asphalt, electrical below ground and major storm sewer improvements to match the new curb alignment.

Mayor Waldron still feels strongly for the safety of the bump outs and can't justify spending money to fix something that isn't broken. She added that the rain gardens need to be maintained to be able to see around them.

Council Member Yetzer agreed that it is senseless to spend that much money. He just wanted to know what it would cost but now sees that it is not worth it. Agree about maintenance. ugly because not maintained.

7) [ITEMS REMOVED FROM CONSENT AGENDA](#)

8) [STAFF REPORTS](#)

Craig gave an update on downtown and construction wayfinding signage.

9) [BOARD REPORTS](#)

Council Member Sorensen - CIP meeting this afternoon and Park Board meeting this Thursday.

Council Member Gleason - School board meeting next Monday.

10) [ANNOUNCEMENTS](#)

11) [CLOSED SESSION: Consider the Sale of Real Property - 150 Sparrow Road](#)

CLOSED SESSION: To Consider the Sale of Real Property

[Cover Page](#)

[Amcon Proposal_1300 Sparrow Road_PID 753160410.pdf](#)

Motion by Sorensen, seconded by Yetzer to adjourn Closed Session at 8:34.

MOTION carried.

12) [ADJOURN REGULAR MEETING](#)

Motion by Yetzer, seconded by Grengs to adjourn regular meeting.

MOTION carried.

UPCOMING CALENDAR OF EVENTS/MEETINGS:

Nicole Waldron, Mayor

ATTEST: _____

Ann Meyerhoff, Office Assistant



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		June 5, 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 June 5, 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 June 5, 2023. Payments are made to vendors via check, electric payment, and through the City's purchasing card program.							
<u>Attachments:</u>							
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			



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023			
Item Name:		Contractor Pay Request #8 - New Fire Station			
Originating Department:		Finance			
Presented by:		Amanda Ortloff			
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>					
Motion to Approve Contractor Payment Request for the New Fire Station Project					
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>					
Kraus-Anderson Construction Co. has reviewed the contractor pay request #8 for the new fire station project. The contractors requesting payment are as follows: Ford Metro, Inc. \$2,185.00 MCI Inc. \$5,881.01 Sentra-Sota Sheet Metal, Inc. \$8,228.90 The total amount of the contractor payments for this request is \$16,294.91. Retainage remains due for each contractor until the project is complete and upon review of liquidated damages. <u>Attachments:</u>					
FINANCIAL IMPLICATIONS:			ADVISORY BOARD RECOMMENDATIONS:		
Funding Sources & Uses:					
PIR Fund					
Budget Information:			Planning Commission		
☒ X Budgeted			Parks and Recreation Board		
☐ Non Budgeted			Safari Island Advisory Board		
☐ Amendment Required			Other		



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Contractor Pay Request #1 - Waconia Downtown Reconstruction - Phase 1					
Originating Department:		Finance					
Presented by:		Amanda Ortloff					
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>							
Motion to approve pay estimate No. 1 to GMH Asphalt, Inc. for the Waconia Downtown Reconstruction - Phase 1							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Staff has reviewed the contractor pay request for the Waconia Downtown Reconstruction - Phase 1 and recommends payment of \$91,967.84 based on the engineering request for payment. This payment represents approximately 3% of the total approved contract for the project.							
<u>Attachments:</u>							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: PIR Capital, Water, Sewer, Storm Water							
Budget Information:				Planning Commission			
☒ Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Call Public Hearing - Revision to City's Fee Schedule : Waconia City Code - Chapter 1100					
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>							
Motion to Call a Public Hearing - Revision to City's Fee Schedule: Waconia City Code - Chapter 1100							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City Council will hold a public hearing in the Council Chambers located at 201 South Vine Street, Waconia, Minnesota, at 6:00 p.m. on June 20, 2023, to receive public input regarding proposed revisions to the City's fee schedule (Waconia City Code, Chapter 1100). The fee schedule includes the rates charged by the City for licenses, permits, municipal utilities, services, land use applications, penalties, and other items. You can view the proposed fee schedule at City Hall (same address as above) or on the City's website: www.waconia.org. The City invites comments in person at the hearing or written comments can be sent prior to the hearing to Shane Fineran, City Administrator, via U.S. Mail at 201 South Vine Street, Waconia, MN 55387, or via email at sfineran@waconia.org.							
<u>Attachments:</u>							
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			



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Track Flooring Replacement - Safari Island Community Center					
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 2023-88, Approving Capital Project at the Safari Island Community Center to Replace Track Flooring							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
As part of the 2023 capital improvement budget, the City budgeted for replacement of the track flooring at Safari Island Community Center. The total budgeted for the project based on quotes received during the budgeting process was \$75,000. The current flooring on the track is the original flooring installed with construction of the facility. Staff recently obtained three updated quotes for the project. The vendors and information for each quote are listed below: • Sport Court Pad and Pour Surface – quote \$74,172.10. This product has good cushion and will be easy to run a floor scrubber over it. Surface comes in a number of colors. • Becker Reaction Flooring – quote \$80,017.00. Product is mostly used in Ice Arenas as a flooring option for locker rooms. Never been done on a track surface anywhere before. • Kiefer’s Mondo Flooring – quote \$93,550. Probably the most used and best product on the market. Based on the quote received, staff is recommending using Sport Court Pad and Pour Surface for this project as it provided the lowest quote for the project. Staff has stated it is a good product that is expected to last about 15 years. With approval of the project by the City Council, staff will begin scheduling the project timeline with the vendor. Staff worked through the project scope with ISD 110 staff, and the provisions of the facility lease terms to gain their consent for the project. Staff also verified with the preferred vendor that pricing and terms were valid from those offered earlier in the year.							
<u>Attachments:</u>							
1. 2388res SI_Project_Approval_Track_Flooring_Res_final.docx							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: PIR Capital Project Fund (103)							
Budget Information:				Planning Commission			
☒ X Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-88**

**RESOLUTION APPROVING CAPITAL PROJECT AT THE SAFARI ISLAND
COMMUNITY CENTER TO REPLACE TRACK FLOORING**

WHEREAS, the approved 2023 capital improvement plan includes replacement of the track flooring at Safari Island Community Center; and

WHEREAS, the current flooring at the facility is the original flooring that was installed with construction of the facility; and

WHEREAS, the project and proposed improvement has been preliminary reviewed with the lessor of the facility; and

WHEREAS, quotes were solicited for the flooring project by staff; and

WHEREAS, three quote were provided by vendors as listed and attached:

- Sport Court Pad and Pour Surface – quote \$74,172.10.
- Becker Reaction Flooring – quote \$80,017.00
- Kiefer’s Mondo Flooring – quote \$93,550.00

WHEREAS, the lowest quote was provided by Sport Court Pad and Pour Surface with total project cost of \$74,172.10; and

WHEREAS, staff is recommending approval of the project with Sport Court Pad and Pour Surface; and

WHEREAS, once approved City staff will work with the vendor to schedule work for the summer of 2023 when traffic is lighter at the facility.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Waconia hereby approves capital at the Safari Island Community Center to replace the track flooring with Sport Court Pad and Pour Surface.

Adopted by the City Council of the City of Waconia this 5th day of June, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Special Event Permit - Lake Waconia Band Festival					
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 2023-130, Approving Special Event Permit for the Lake Waconia Band Festival and practices.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Waconia Band Boosters have submitted a Special Event Permit for the annual Lake Waconia Band Festival for June 17th, 2023 at 6:00 p.m. and park performances on June 7th. The annual festival showcases 14 high school marching bands from across the state. This year's route will utilize 1st Street from Orange to Walnut, terminating at Bayview Elementary. Band staging will occur on June 17th utilizing 2nd Street W and Oak and Orange Avenues S. Set-up the day of the event will begin at 10:00 a.m. The park performances will utilize 1st Street on June 7th at 9:00 a.m. to 3:00 p.m. between Pine and Spruce Streets for practice and from 3:00 p.m to 7:00 p.m. for between Oak and Elm for performance. The streets will be closed during the noted times. The Lake Waconia Band Festival is a city supported event per the Special Event Policy and city staff provide some staff support for set-up and take down of no parking signs and barricades provided by the city as well as some emergency/medical response staffing by fire department personnel during the festival on the 17th. <u>Attachments:</u> 1. 23130res_Approving_Lake_Waconia_Band_Festival.docx 2. LWBF Special Event Permit							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
General Fund							
Budget Information:				Planning Commission			
☒ X Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-130**

**RESOLUTION APPROVING USE OF STREETS, PARADE PERMIT, AND FOOD TRUCKS
FOR THE LAKE WACONIA BAND FESTIVAL**

WHEREAS, Lake Waconia Band Festival organizers have requested use of and closure of certain streets in support of the 24th annual Lake Waconia Band Festival; and

WHEREAS, request closure and use of 1st Street between Pine Street and Spruce Street from 9:00 a.m. and 3:00 p.m. on June 7th for marching band practice; and

WHEREAS, request closure and use of 1st Street between Oak and Elm Streets from 3:00 p.m. and 7:00 p.m. on June 7th for marching band practice; and

WHEREAS, request closure and use of 2nd Street between Oak and Birch Streets; Oak Street between 2nd Street and 1st Street; and Orange Street between 2nd and 1st Street from 3:00 p.m. to 8:30 p.m. on June 17th for band staging areas; and

WHEREAS, request closure and use of 1st Street between Birch and Walnut Streets; and Walnut Street between 1st Street and 2nd Street between 5:00 p.m and 9:00 p.m. for the marching band parade route; and

WHEREAS, request the permitting of food trucks and/or other private food vending and concessions sales on public streets or within City Square Park during the event; and

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby approves the requested use of streets, parade permit on the designated route, and food truck and/or concession sales on public property.

Adopted by the City Council of the City of Waconia this 5th day of June 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk



SPECIAL EVENT PERMIT APPLICATION

A special event includes an event held in the city in which one of the following occurs:

- a) Amplified sound is to be used
- b) A street, sidewalk or other public right of way or place is closed for the benefit of the event attendees
- c) A temporary alcoholic beverage license is required or an existing on-sale alcoholic beverage license is carried to the event location as part of a community festival
- d) The event will adversely impact a considerable number of members of the public

Most outdoor events and activities within the City of Waconia require permits or approvals. All costs associated with the event are to be borne by the event sponsor. All applications must be approved by the City Council prior to issuance of a permit.

A Review Committee, made up of representatives from City and County departments, will review the application and make changes and/or recommendations to the event sponsor prior to application being forward to the City Council for a final decision.

TIMING FOR APPLICATION SUBMISSION

- Applications for special events need to be received by the City of Waconia at least 30 days prior to the event date, with submission 60 days in advance requested wherever possible.
- There is no guarantee an event application can be processed and approved in less than 30 days.
- For large scale events involving 1,000 participants or more application must be made 120 days in advance.

ADDITIONAL CONSIDERATIONS FOR EVENT ORGANIZERS

In the case of a race, walk, parade, or other event using City streets, a detailed layout of the route and arrangements for traffic control to be done by a certified vendor using the Manual of Uniform Traffic Control Devices standards will be required to be submitted with the application.

Any event to be held within Parks or shelter must contact City Hall. A special event permit is required for events/activities exceeding 300 participants or any event/activity which extends beyond the immediate park boundaries.
<https://www.waconia.org/347/Facility-Use-Rental-Applications>

All applications, are to be sent directly to City Hall. **Issued permits will NOT be eligible for refunds.**

Section 1. CHECKLIST OF REQUIRED INFORMATION

Select any of the following that apply to this event:

- ☐ Amplified Sound to be used – COMPLETE SECTION 3 (B)
- ☒ Closure request for a street, sidewalk, or other public way or place as part of the event – COMPLETE SECTION 3 (C)
- ☐ Alcohol service as part of the event – COMPLETE SECTION 3 (D) AND ANY ADDITIONAL LIQUOR LICENSES WITH THE CITY HALL'S OFFICE IF REQUIRED
- ☐ Tents or other membrane structures to be erected as part of the event
- ☐ Fireworks Display as part of the event

Staff Initials	For your license application to be processed, you must submit the following to the City Halls's Office:
☐	☐ This application form, fully completed and signed by the applicant or an authorized officer or partner. ANSWER EVERY QUESTION, USING N/A IF NECESSARY ON ANY QUESTIONS. APPLICATIONS WITH BLANK QUESTIONS WILL BE RETURNED WITHOUT PROCESSING.
☐	☐ Detailed Site Plan for the event
☐	☐ Certificate of Insurance, if required
☐	☐ Traffic Control plan from an approved vendor for any street closures
☐	☐ Payment for required permit fee; Checks must be made payable to the City of Waconia •\$100 for base Special Event Permit
☐	☐ Any required additional permit applications from other City departments

Section 2. REQUIRED LICENSE INFORMATION – complete every question				
A. Information about who is completing and submitting this application				
1. First Name Mitch		2. Last Name Fisk		
3. Primary Telephone Number 6192495547	4. Type of Phone: ☒ Cell ☐ Business ☐ Home ☐ Other	5. Alternate Phone Number	6. Type of Phone: ☐ Cell ☐ Business ☐ Home ☐ Other	
7. Email Address lakewaconiabandfestival@gmail.com				
8. Please send official notices relating to this license to: ☐ Mailing Address ☒ Email ☐ Business Address		9. Role of person completing application: ☐ Owner ☐ Officer ☐ Partner ☐ Manager ☐ Agent for the Owner ☒ Other Festival Coordinator		
B. Information about primary point of contact for this license during licensed activity (if different than above) THIS PERSON MUST BE ON SITE DURING THE EVENT				
10. First Name		11. Last Name		
12. Primary Telephone Number	13. Type of Phone: ☐ Cell ☐ Business ☐ Home ☐ Other	14. Alternate Phone Number	15. Type of Phone: ☐ Cell ☐ Business ☐ Home ☐ Other	
16. Email Address		17. Role of primary contact: ☐ Owner ☐ Officer ☐ Partner ☐ Manager ☐ Agent for the Owner ☐ Other		
C. Mailing Address Information				
18. Name of organization or individual to whom correspondence should be sent about this permit Waconia Band Boosters				
19. Email Address lakewaconiabandfestival@gmail.com				
20. Mailing Address 1650 Community Dr	21. City Waconia	22. State MN	23. Zip Code 55387	
24. Please send official notices relating to this license to: ☐ Mailing Address ☒ Email				
D. License Holder Information				
Provide information about who this license will be issued to				
25. Entity license will be issued to Mitch Fisk c/o Waconia Band Boosters				
26. Business Federal Tax ID Number/Tax Exempt Number		27. Business State Tax ID Number 38-3681247		
28. Business Address 1650 Community Dr	29. City Waconia	30. State MN	31. Zip Code 55387	
Section 3. Event Information – attach additional sheets as needed for any questions				
A. Event Basics				
32. Name of Event Lake Waconia Band Festival				
33. Date(s) of Event <i>complete separate applications for a series of events held at separate times</i> 4/18/2023				
34. Time of Event 6:00PM		35. Set up start time and clean up finish time 7:00AM; 10:00PM		

36. Location of Event –Street Address 1st Street, Birch to Walnut	37. City Waconia	38. State MN	39. Zip Code 55387
40. Description of area to be used at the event location for activities (Attach additional sheets as needed) <i>***A detailed diagram of the site plan is also required to be submitted</i>			
The parade route runs on 1st Street from Birch to Walnut. Additionally, there will be band staging areas			
41. Is your event in a City park? ☐ Yes ☒ No			
If yes, you must schedule use of the park with City Hall as well. Call: 952-442-2615			
42. Is your event outdoors? ☒ Yes ☐ No			
43. Estimated Number of Attendees- 2000	44. Are tickets being sold? ☐ Yes ☒ No		
45. What is the admission charge, if any 0	46. Purpose of event proceeds (if applicable) Waconia Band Boosters...historically parade is non-revenue generator		
47. Describe how attendance will be monitored and limited if necessary Parade has volunteer staff stationed at every intersection along the parade route on the north and south sides of every intersection. Those volunteers are incontact with the leader of the intersection control team, who is incontact with both the Festival Coordinator and the Lead volunteer of the Safety team who will be in contact with local fire department and sheriff's department.			
48. Describe any entertainment being provided This year's parade will include 14 high school marching bands. This is a no-float parade...nothing is thrown to the spectators.			

49. Describe food and beverage plans for the event, including who will be providing any food or beverages and what other licenses or permits will be obtained from any jurisdiction for this service.

The coordinating team is working with local vendors and food trucks to provide food and beverages for the spectators. The festival is in conversation with private entities and is seeking permission for food trucks to be staged on private property. No alcohol will be served as part of the festival.

50. Describe how any emergencies or medical needs occurring during the event will be met

There is a Safety team that has two different first aid tents and is also working with local EMT, Fire Departments and Sheriff's Department to provide immediate first aid.

Sanitation and garbage disposal is the responsibility of the event sponsor. Staff will review this information for adequacy based on planned attendance.

51. Will you be providing additional trash receptacles?



Yes

Company providing this service: Republic Services

Number of receptacles: 22

What is the plan for picking these receptacles up following the event?

Volunteer team will pick up all trash cans on Sunday morning.



No

Explain how trash will be managed as part of the event:

52. Will you be providing toilets and wash stations?



Yes

Company providing this service: Mini-Biff

Number of toilets: 4

Number of wash stations:

What is the plan for picking these items up following the event?

Mini-Biff will be instructed to remove all units by end of the day Sunday.



No

Explain how these needs will be met for event attendees:

Additionally, the spectators will be made aware of the public facilities at City Square Park

B. Information about Amplified Sound

53. INDICATE WHICH OF THE FOLLOWING APPLIES TO THIS EVENT:

- ☐ Maximum allowable sound pressure level no more than 85 decibels measure at the property line or venue boundary.
- ☐ Waive the maximum allowable sound pressure level and require the amplified sound to terminate no later than 10:30 PM
- ☒ There will be NO amplified sound at this event.

54. Describe the means and method proposed by you as the applicant to prevent noise from the event from unreasonably disturbing those persons who live or work in the vicinity of the event.

The noise from the event is only from musical instruments as normal part of a marching band. We do not take any measures to limit the sound, but the parade is usually over by 8:00PM at the latest.

C. Information about any public right of way closures

55. Are you requesting any kind of public right of way closure as part of this event?

- ☐ Yes, for a very limited duration less than 15 minutes
- ☒ Yes, for 15 minutes or longer – an obstruction permit through Public Services Department will be required
- ☐ No – if no, please skip the remainder of this section and jump to subsection D

When a street is to be closed for over 15 minutes, a detour is to be established and signed to provide a designated route around the event. A detailed layout of the route and arrangements for traffic control must be done by a certified vendor using the Manual of Uniform Traffic Control Devices standards. Law Enforcement Officers must be utilized at all traffic controlled intersections. Public Services time for temporary traffic signal modifications, additional signage, or other City costs may be charged.

In addition all events with street closures must include an emergency plan detailing access for emergency vehicles. Road closures are not allowed for locations where there are no other access options for the businesses or residents

56. Attach a detailed diagram of any proposed closure, and explain here exactly what is pictured in the diagram and intended in terms of the closure

The parade route runs on 1st Street from Birch to Walnut. Additionally, there will be band staging areas on Oak and Orange and both of these roads will be closed between Main Street and 2nd Street. Finally, 2nd Street will be closed between Oak and Orange. See attached maps showing road closure and traffic barricade placement.

57. Are you proposing a street closure that will impact residential properties?

- ☒ Yes – if yes, you must notify all properties at least 7-days in advance of the event of the closure
- ☐ No

58. Are you proposing a street closure that will impact commercial properties?

- ☒ Yes
 - ☐ No
- If yes, you must notify all businesses at least 14-days in advance of the closure.

D. Information about any alcohol as part of the event

59. Are you planning to serve alcoholic beverages as part of this event?

- ☐ Yes – if yes, please answer the following questions
☒ No – if no, please skip the remainder of this section and jump to Section 4 of the application

60. Which of the following are you requesting as part of serving alcoholic beverages?

- ☐ Temporary Liquor License (requires a separate application)
☐ Designation of the special event as a Community Festival to allow on-sale licensee(s) to provide service
☐ Service by licensed on-sale licensee(s) on Municipal Facilities
☐ Use of licensed caterer(s) who will be providing alcohol service incidental to the service of food
☐ Other

If you indicated other, please explain how alcoholic beverages will be provided as part of this event, by whom, and under what authority

61. If you intend to apply for a temporary liquor license, is the same entity applying for the liquor license as the special event permit?

- ☐ Yes
☐ No – Name of the organization/entity applying for a temporary liquor license also serving as an event sponsor:

Indicate what type of organization will be applying for the liquor license:

- ☐ Club
☐ Religious Organization
☐ Political Committee Registered Under Minn. Stat. Section 10A.14
State University
☐ Brewer or Microdistillery
☐ Charitable Organization
☐ Non-Profit Organization

*If the organization is not one of the above, it is not eligible to apply for a temporary liquor license

If the organization is a club or a charitable, religious or non-profit organization, has it been in existence for at least 3 years?

- ☐ Yes
☐ No-the organization is not eligible for a temporary liquor license

Note: A temporary liquor application must be received by the City Hall's Office NO LATER 45 DAYS BEFORE THE EVENT. There is no ability to make any exceptions to this requirement.

62. Please list all on-sale licensees who will be providing liquor service as part of this event under this designation. Certificates of insurance specifically covering this event must also be provided for all vendors.

63. If a licensed caterer will be used as part of the event, indicate the name and state license number of the caterer

64. List who will be carrying liquor liability insurance for this event

65. Indicate the specific area(s) liquor will be dispensed and consumed, and what measures will be followed to ensure liquor is only dispensed to event attendees who are of legal age, and that no liquor leaves the authorized area

66. Do you plan to hire off-duty officers to provide security during the event (required with alcohol service)?

☒ Yes

☐ No

Contact Carver County Sheriff's Office. 952-361-1231

67. Fireworks Display as Part of the event?

☐ Yes

☒ No

If you answered yes to the above, please contact the Fire Department at 952-442-2316 in order to request a Fireworks Display Permit

68. Tents or other membrane structures to be erected as part of the event?

☐ Yes

☒ No

69. If you answered yes to question 68, please name the tent provider/company. Please also list the square footage and dimensions of your tent. If you do not have or need a tent provider please state so below.

If your tent is over 400 square ft. Please contact the Planning Department for a temporary structure permit. 952-442-2184

Section 4. APPLICATION VERIFICATION AND ACCEPTANCE OF RESPONSIBILITY

Notice of Collection of Private Data

The information collected and required as part of a license application will be used to determine eligibility for a City of Waconia License or Permit. Disclosure of this information is voluntary. It is not legally required to provide requested data, however, failure to do so may mean the City of Waconia is unable to process this application.

Social Security Numbers and Birth Dates are classified as private data, and are not available to the public. Access to this data is limited to staff with a business need in order to determine license eligibility, and to administer and manage the licensing program.

Disclosure of a Minnesota Tax ID Number is required by Minnesota Statutes 270C.72, and this information may be requested by and released to the Minnesota Commissioner of Revenue.

All other information contained in this application is public information upon submission pursuant to the Government Data Practices Act, Minnesota Statutes Chapter 13. Individuals have the right to see and obtain copies of the data maintained on them, including private data, and also have the right to be told the contents and meaning of the data, and to contest the accuracy and completeness of the data.

A SIGNATURE VERIFYING THE OVERALL ACCURACY AND COMPLETENESS OF THIS APPLICATION BY THE OWNER, PARTNER, OR OFFICER OF THE ENTITY APPLYING IS REQUIRED IN ORDER TO PROCESS THIS LICENSE APPLICATION

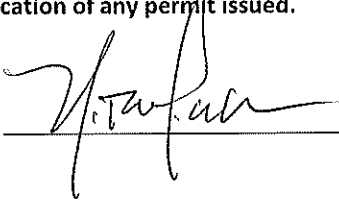
Mitch Fisk

I, (print name) Mitch Fisk, agree to strictly comply with all the laws of the State of Minnesota governing the taxation of business and all ordinances of the City of Waconia, and that I intend to comply with the special event policy as well as any conditions of approval that may be placed on the permit if granted. I understand I can review all City ordinances on the City website or in the City Hall's Office.

I affirm I have no intention or agreement to transfer the permit being applied for to another person or entity, or to allow any other person or entity to operate under the authority of the permit. I understand that by submitting this application, I hereby consent to allow the appropriate City personnel, or any authorized representative or agents, to inspect the event premises for the purpose of ensuring compliance with the law and any permit conditions at any time the permit is active. I also understand that a denial of permission for such a lawful inspection of the premises is a violation of the permit provisions.

I hereby certify that I have read and understand every question in this application and that the answer to every question is true to my knowledge, information and belief. I further understand that the giving of false information as part of this application, regardless of when it is discovered, and/or failure to give required pertinent information can constitute cause for denial, suspension, or revocation of any permit issued.

Signature of Applicant



Date

4/18/2023



- = 8 Foot Barricade (Total: 24)
- = 8 Foot Barricade + 4 Orange Cones (Total: 5 barricades; 20 orange cones)
- = Type III Barricade (Total: 2)



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Carver County CDA Community Growth Partnership Initiative Grant					
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 2023-131, approving application for the Carver County CDA Community Partnership Initiative Grant.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The Carver County CDA allows applications for their planning/pre-development grant on a pipeline basis, with applications due on the 1st of every month. The program makes up to \$7,500 available to be utilized by cities to help support local affordable housing. The planning/pre-development grant funding is restricted to activities directly related to a current or future project. This application through the CDA is a little bit different than the City's previous redevelopment grants in that eligible activities include items such as property acquisition, relocation payments, clearance and demolition, clean-up of pollution, rehab of historic properties, necessary public improvements, soil corrections, rehabilitation/expansion/new construction of a facility that is linked to job creation of living wage jobs or affordable housing units. It is recommended to apply for planning/pre-development grant funds to support the replat and combination of Waterford Evolution A Condominium CIC No. 114, Waterford Evolution II A Condominium CIC No. 150, and Waterford Evolution III CIC No. 151. The three homeowners associations, upon completion, would be combined into one master association to support continued affordable housing within the City of Waconia. The proposed grant funds would be applied to the replatting of the parcel and the legal fees associated with combining the associations. City staff and CDA staff continue to look for additional funding sources understanding that our goals align to improve the lives of our community and regional residents through affordable housing. Attachments: 1. 23131res_CDA_CGPI_Application_Waterford_Evolution.doc 2. 2023-CGPI-application-guidelines_Waterford Evolutions.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. 2023-131**

**RESOLUTION APPROVING CARVER COUNTY CDA COMMUNITY GROWTH
PARTNERSHIP INITIATIVE GRANT APPLICATION**

WHEREAS, the City of Waconia has identified a proposed project within the city that meets the Carver County Community Development Agency (CDA) Community Growth Partnership Initiative Grant Program’s purpose and criteria; and

WHEREAS, the City has established a Redevelopment Plan of which the proposed project is a component; and

WHEREAS, the City has the capacity and capability to ensure the proposed project will be completed and administered within the Community Growth Partnership Initiative predevelopment program guidelines; and

WHEREAS, the City has the legal authority to apply for financial assistance; and

WHEREAS, the City is supportive of affordable housing and of the CDA’s mission to improve the lives of Carver County residents through affordable housing and community development.

NOW THEREFORE BE IT RESOLVED that the City of Waconia approves the application for funding from the Carver County CDA Community Growth Partnership Initiative Grant program.

BE IT FURTHER RESOLVED that if the application is approved by the Carver County CDA, the City Administrator is hereby authorized to execute such agreements as are necessary to receive and use the funding for the proposed project.

Adopted by the City Council of the City of Waconia on this 5th day of June, 2023.

Nicole Waldron, Mayor

Attest: _____
Jacqueline Schulze, City Clerk



2023 Community Growth Partnership Initiative

Request for Proposals Guide

**Applications Available
Applications due to CDA
Scoring Committee Mtg
CDA Board Meeting**

**April 17th, 2023
May 26th, 2023 @ 4:30pm
June 5th, 2023 @ 3:00pm
June 15th, 2023**

PURPOSE

The Community Growth Partnership Initiative Grant Program (CGPI) started in January 2016 with the goals to increase the tax base and improve the quality of life in Carver County through three specific strategies:

Affordable Housing: The program is intended to promote the development of affordable workforce and supportive housing. The need for affordable housing continues to grow in Carver County and opportunities for affordable housing development are becoming increasingly difficult. Affordable housing provides benefits beyond the housing itself, such as assisting area workers and providing housing for our future workforce.

Community Development: The CGPI is intended to assist cities in the area of job creation and community development as Carver County cities continue to work towards creating “Communities for a Lifetime”.

Redevelopment: The program is intended to assist with cities’ implementation of Redevelopment Plan goals. Blighted and under-utilized areas do not maximize their potential economic value, can negatively impact the livability of a community, and can be expensive to remedy.

PROGRAM INFORMATION

Funding Available: Up to \$400,000 in grant funds is available during 2023. The CDA will reserve ten percent (10%) for Pre-development grants. The maximum Pre-development grant amount is \$7,500. The remaining funds will be available for Community Development grants, with a maximum individual award amount of \$100,000.

Eligible Applicants: Eligible applicants for this program are Carver County cities. Only one application per city per year will be accepted for Pre-development grants. A maximum of \$100,000 in Community Development requests will be accepted per city per year either through one project or a combination of projects.

Application Instructions: It is the applicant’s responsibility to be aware of the submission requirements needed to prepare a complete application in accordance with this guide. The application consists of the program application and all required attachments. Applications may be submitted via email to chucks@carvercda.org or sent to the Carver County CDA; Attention: Chuck; 705 North Walnut Street; Chaska, MN 55318.

Pre-development grants are accepted on a pipeline basis, with applications due on the 1st of every month. Community Development grants are accepted up to twice per year if the funds are not expended in the first round.

Applications determined by the CDA to be incomplete will not be accepted and will be returned to the applicant. No applications, attachments or documentation will be accepted after the application due date unless requested by the CDA. The CDA retains the right to refuse the application in whole or in part for any reason. Contact Chuck Swanson, (952) 556-2778 or chucks@carvercda.org, if you have questions. Applicants are strongly encouraged to discuss their project prior to submission.

DEFINITIONS

Activity: Component(s) of the Project for which funds are requested.

Housing Affordability: “Affordable” is defined as (a) rental—available to households at or below 50% of the area median income; (b) owner—available to households at or below 80% of the area median income.

Living Wage Jobs: defined as \$17 per hour or more.

Project: Development component for which Community Development grant funds are requested.

Redevelopment: is defined as the reconstruction, re-use or change in use of any developed property that improves the economic use and value of property. Redevelopment is usually characterized by the partial or complete clearance of existing structures and new construction. The new use(s) may be residential, commercial, retail, industrial, office or other uses the city supports.

Redevelopment Plan: as defined by Minnesota Statutes 469.002 Subd. 16: *“Redevelopment plan” means a plan approved by the governing body, or by an agency designated by the governing body for the purpose of approving such plans or authorized by law to do so, of each city in which any of a redevelopment project is to be carried out, which plan provides an outline for the development or redevelopment of the area and is sufficiently complete (1) to indicate its relationship to definite local objectives as to appropriate land uses; and (2) to indicate general land uses and general standards of development or redevelopment.*

The Redevelopment Plan will identify a redevelopment area, activities to be undertaken within the area, as well as city objectives, land use requirements, and development or redevelopment standards. The city’s comprehensive plan or other city-wide planning documents do not qualify as Redevelopment Plans under the CGPI Program unless the area is specifically identified and documented in detail in the plan.

PRE-DEVELOPMENT GRANTS

Pre-development grant funding is restricted to activities directly related to a current or future project, including but not limited to:

Market Analysis	Concept Design
Site Design	Zoning Studies
Small Area Plans	TIF/Abatement Analysis
Engineering Studies	Stormwater Management Plans
Soil Testing	Blight Analysis
Certified Shovel Ready Site Documents	Environmental Studies/Assessments

Pre-development grants may also be used to fund activities that are required to establish a Redevelopment Plan. As such, the Redevelopment Plan is not required to be in place to be eligible for a Pre-development grant.

The application must meet the following threshold criteria to be scored:

- The application must be approved by the respective city council via resolution that includes the Required Resolution Provisions (sample resolution is attached to application).
- The city must be supportive of affordable housing and the CDA’s mission. The adopted resolution must contain the following required provision: *The City is supportive of affordable housing and of the CDA’s mission, to improve the lives of Carver County residents through affordable housing and community development.*
- There is a minimum leverage rate of \$1 of other funds (public or private) for every \$1 of Pre-development grant funds.

COMMUNITY DEVELOPMENT GRANTS

Community Development funding is restricted to the Eligible Activities, defined below, necessary to prepare for the development.

Eligible Activities

Grant funding is restricted to the following activities:

1. Property acquisition (see “Other Requirements” below for additional stipulations)
2. Relocation payments to occupants of property acquired with program funds
3. Clearance and demolition expenses related to site assemblage for redevelopment and consistent with the Redevelopment Plan
4. Clean up of pollution or other contaminants on the impacted site
5. Historic preservation (rehabilitation of properties with national or local significance in order to preserve that significance)
6. Necessary public improvements including, but not limited to, public parking structures, sewer and water, utilities, sidewalks, lighting, streetscape, street reconstruction, and stormwater
7. Corrections to soil conditions with extraordinary remediation expenses
8. Rehabilitation/expansion/new construction of a facility that is linked to job creation of living wage jobs or affordable housing units

Ineligible Activities

Grant funding cannot be used for the following activities:

1. Costs not included in the application
2. House moving
3. Administration expenses
4. Public facilities (non-parking)

Threshold Criteria

Applicants must first meet the threshold criteria to be considered for funding.

1. The proposed project must be identified in the Redevelopment Plan (if it is a redevelopment project).
2. The application must be approved by the respective city council by resolution that includes the Required Resolution Provisions (sample resolution is attached to application attached).
3. The city must be supportive of affordable housing and the CDA’s mission. The adopted resolution must contain the following required provision: *The City is supportive of affordable housing and of the CDA’s mission, to improve the lives of Carver County residents through affordable housing and community development.*
4. The application must demonstrate a minimum leverage of \$2 of other funds for every \$1 of Community Development grant funds.
5. Demonstration of the project’s public purpose and financial need that other funding sources cannot fill.

Competitive Criteria

If the application meets all threshold criteria, it will be reviewed and ranked on the following competitive criteria.

1. **Leverage and Financial Need:** Applications should include other funding sources committed to the project. Examples include TIF/Abatement, DEED, Metropolitan Council, or other public and private resources. Evidence of funding commitments must be submitted with the application. The project should also show a financial need and demonstrate that other funding sources are not sufficient. [15 Points Maximum]
2. **Readiness to Proceed:** The applicant should be ready to proceed with the identified project upon funding award (e.g. city entitlements, site control secured, financing commitments in place). [10 Points Maximum]
3. **Housing Affordability:** To receive points for Housing Affordability, the project must be either a Tax Credit Development or receiving some other type of funding that requires income and/or rent restrictions (affordability compliance) with a federal, state or local agency. If the project is a rental project, the owner must be willing to accept Tenant Based Rental Assistance (Housing Choice Voucher/other tenant based rental assistance). Compliance reporting required by the federal, state or local agency will also need to be submitted to the CDA annually. [25 Points Maximum]
4. **Economic Benefit:** The project should have a defined impact on the local economy. This impact is measurable through growth in property taxes and new/retained Living Wage Jobs. [25 Points Maximum]
5. **Environmental Improvement:** Projects that will clean-up, prevent and protect from environmental hazards are encouraged. Applicants should work with state and local agencies and professional consultants to identify the optimum remedy and create sustainable redevelopment. [10 Points Maximum]
6. **Removal of Blight:** Points will be awarded to projects that demolish or clean up blighted properties and/or properties with obsolete structures beyond their useful life. [8 Points Maximum]
7. **Livability Concepts:** Redevelopment Plans and Projects should consider the need for public transit, reduced/shared parking, walkable neighborhoods, resiliency, green space, increased density, and mixed land uses that build a strong sense of community. [7 Points Maximum]

Other Requirements

Property Acquisition and Relocation

Property acquisition may be undertaken by a public, private or non-profit entity as part of a redevelopment project. In all instances, the CDA will provide grant funds to the city as grantee, which in turn, can provide those funds to another acquiring entity if necessary. The corresponding grant agreement will specify conditions whereby the acquiring entity will have no recourse to the CDA in matters related to the acquisition of real property.

If federal funds are used in whole or in part for a project, including property acquisition, clearance and/or construction, all provisions of 49 CFR 24.101 (the Uniform Relocation Act or URA) must be followed. With all funding sources, the cost of property acquisition must be based on a determination of fair market value as derived from an independent appraisal and/or county assessed value. If the final acquisition price exceeds the appraised value, the grant funds requested must be less than this value with the additional cost being paid by other funds.

Minnesota Statutes 117.50 et. seq. and related case law also requires that in all acquisitions undertaken by an acquiring entity without federal participation, the authority must provide relocation assistance as a cost of acquisition. Additionally, the Minnesota Supreme Court held that an authority may be responsible for certain relocation costs when the property is acquired by a private developer if the activities of the authority and the developer are so intertwined to produce a joint acquisition of the project.

Financial Need

As noted previously, leverage of other funding sources is required for a CGPI grant. In addition to identifying leverage, the applicant shall also explain how they have exhausted other resources.

Fair Housing

The Fair Housing Act prohibits discrimination in all housing related transactions based on race, color, religion, national origin, sex, familial status and disability. Projects shall comply with all federal laws, executive orders, and implementing rules and regulations. Projects shall also comply with Minnesota law and local city ordinances.

Reimbursement

The Community Development grant program works on a reimbursement basis. In order to be reimbursed, documentation must be submitted showing the criteria has been met. For example, if scoring is received in growth or retention of Living Wage Jobs, documentation must be submitted to support the number listed in the application.

SELECTION

Applications must be completed and received by the due date. Applications will be reviewed by CDA staff, and those meeting the threshold criteria and scoring highly on the competitive criteria will be submitted to the CDA Board of Commissioners. After selection and approval by the CDA Board of Commissioners, the CDA will issue a letter of commitment and enter into a grant agreement with the city.

GRANT AGREEMENT

CDA staff will work with the city and enter into a Grant Agreement. This agreement will detail the terms and conditions of the grant and allow for the release of funds to the city. The grant agreement will require funds to be spent within 18 months of the date of the agreement. Waivers and extensions to any provision in the agreement requested by the grantee will be considered on a case-by-case basis depending on the merits of the request. Grants will be paid on a reimbursement basis. Grantees will also be required to submit semi-annual progress reports and final report once the project is completed.

Community Growth Partnership Initiative 2023 Community Development Grant Application

Project name: Waterford Evolution Townhomes

Applicant: City of Waconia

Contact name: Lane Braaten, Community Development Director

Contact email and phone: lbraaten@waconia.org (952) 442-3106

Authorized official for contract execution (name and title): Shane Fineran, City Administrator

Project Summary

The City is working with the homeowners located in the Waterford 2nd Addition/ Waterford Evolution CIC neighborhood. The Waterford Evolution CIC Plat was originally approved and recorded in 2006. The majority of the townhomes were constructed, but due to the economic downturn a number of the properties were re-platted single-family residential. The remaining three townhome lots were constructed in 2016 and instead of being combined with the master association, the properties were developed under two additional CIC plats and their own homeowners associations. The platted properties are included in the WATERFORD EVOLUTION II CIC NUMBER 150 (4 units) and WATERFORD EVOLUTION III CIC NUMBER 151 (9 units). Evolution II is a Community Land Trust building, which the City contributed to as a continued support for affordable housing within our community.

The homeowners of the two latest CIC plats have found that the viability of their individual homeowners associations are troubling and/or not viable. So, they are working with the master association to combine all three associations into one.

The City is requesting \$7,500 in funding as part of the CDA's predevelopment grant. The affordable housing aspect of this project requires additional contribution to allow for the necessary surveyor and legal fees associated with the project.

1. Request Details

1a. Request Amount: \$7,500

1b. Proposed activities/use of CGPI funds (check all applicable boxes)

- | | | |
|---|---|--|
| ☐ Acquisition | ☐ Utilities | ☐ Sidewalks/Trails |
| ☐ Lighting | ☐ Site Work | ☐ Demolition |
| ☐ Landscaping | ☐ Roadways | ☐ Stormwater |
| ☐ Streetscaping | ☐ Soil Remediation | ☐ Environmental cleanup |
| ☐ Parking | ☐ Relocation | |
| ☒ Other (list) Surveyor and legal fees associated with affordable housing | | |

2. Readiness Details

Milestone	Commitment date or anticipated date	Amount
<i>Construction Timeline</i>		
Market/feasibility study		Not Applicable
Land use approvals (including any zoning, comprehensive plan amendments, variances, etc.)		Not Applicable
Environmental approvals		Not Applicable
Construction bids		Not Applicable
Permits		Not Applicable
Site control		Not Applicable
Financial closing		Not Applicable
Clean up/demolition		Not Applicable
Begin construction		Not Applicable
Project completion		Not Applicable
<i>Project Funding Sources</i>		
First mortgage		
General partner cash/other equity		
Syndication proceeds		
Deferred loans		
TIF		
Sales tax/energy rebates		
Deferred developer fee		
Met Council TOD/LCDA/TBRA		
DEED Redevelopment/Cleanup		
DEED MIF/JCF		
Carver County CDA CGPI	\$7,500	
City		
Other: CDA	\$5,400	
Other:		

Percentage of funds committed: \$5,400

3. Project Details

3b. Site size 1.3 Acres

3d. Parcel ID(s): 755330010, 755330020, 755330030, 755330040, 755320050, 755320040, 755320030, 755320020, 755320010, 755310104, 755310103, 755310102, 755310101

3e. Are there any existing housing units on the site: Yes

Are any of the units vacant?

No

3g. Housing Units (*Indicate the number of housing units planned in the project*)

	Total Units	New Units	Retained Units	Owner-Occupied	Rental Units	Market Rate	Affordable Units	Affordability Level (% AMI)
Single Family								
Townhome	13		13	13		9	4	80%
Apartments/Condos								
Duplexes								
Other (Specify)								

3i. If yes, please describe the type and length of affordability.

The target population is a mix of seniors, families, first time homeowners, etc.

N/A

Commercial

3l. Are there existing commercial buildings on the site: No

Are any of the units vacant? N/A

3m. Commercial square footage *(Indicate the square footage and jobs planned for the project)*

	Total square footage	New square footage	Retained square footage	New FTEs	Retained FTEs	Jobs with wages $\geq$ \$17/hour
Retail/commercial						
Industrial						
Office						
Other (Specify)						

3n. List and describe any businesses that will be located on the site. Identify any that are Small Business Enterprises (SBE), Women Business Enterprises (WBE), Minority Business Enterprises (MBE) or Veteran owned.

4. Project Costs

4a. Current taxable market value of the site: 2023 Value = \$3,514,600.00

4b. Anticipated taxable market value after redevelopment: Retain value of property with the help of the funds.

4c. Development costs

Acquisition cost:

Total development cost:

4d. Proposed cost of activities/use of CGPI funds

Activity	Total Cost	CGPI Request
Acquisition		
Utilities		
Sidewalks/Trails		
Lighting		
Site Work		
Demolition		
Landscaping		
Roadways		
Stormwater		
Streetscaping		
Soil Remediation		
Environmental cleanup		
Parking		
Other - Legal & Surveyor Plat Fees	\$20,000	\$7,500
Other		

5. Narrative

5a. Describe how this project fits into the city's goals and the Redevelopment Plan, its public purpose, any extraordinary costs, and the community's need for the project. Describe other projects completed/underway as part of the Redevelopment Plan or in the area and how this project may catalyze additional (re)development.

The City's goals include additional housing affordability, housing for the elderly and housing diversity. The replatting of the Waterford Evolution townhome association properties will allow for us to continue our work for additional affordable housing by maintaining the existing affordable townhomes. The townhomes currently house some elderly and are also a key component in the diversity of our housing supply in the City.

5b. Provide a brief history of the site including previous uses, slum or blight, activities, contamination and other attempts at redevelopment.

The initial development was approved in 2005/2006. Due to the economic downturn it was not completed by the original developer. As such, the final three properties, 13 townhomes, were developed at a later date as part of their own associations, which is now limiting the viability of the associations.

5c. How does your project create a more livable community? Include information about the mix of uses, proximity to transit, reduced/shared parking, resiliency, walkable neighborhoods, green space, increased density, benefits to businesses/organizations, and community building elements.

By resolving this issue we will go a long way in making a walkable neighborhood much more resilient and stable for its existing population. The combination of the three associations will be a benefit to all members by assuring that all structures and green spaces are maintained to a certain standard and insulating each of the property owners with more association members providing funds to resolve any future issues that may arise.

5d. Describe any contamination on the project site or in the redevelopment plan area. Was a Response Action Plan developed? Will the project be cleaning up any contaminated soil, hazardous waste or other elements? If so, describe the type of clean up.

N/A

5e. Describe how the project is maximizing the potential of the site.

The clustering of the townhomes within the residential development was a way to maximize the site potential.

5f. Will any existing residents, tenants or businesses be temporarily or permanently relocated as a part of this project? If so, please describe how relocation will occur.

No.

5g. Describe the biggest challenges or extraordinary costs facing your project and explain why the project is not feasible without CGPI funds. Please include any challenges not previously described such as status of site control, financing, rents and returns, tenants/leasing and other items pertinent to a successful project.

A number of the properties were developed with an affordability component, so the underlying property owners are limited in what they can afford to pay to resolve the issue, which was created by the previous developer.

Without CGPI funds, two of the three associations may not be viable moving forward. If the homeowners associations were ultimately dissolved it may cause unintentional affects on the remaining master association.

Attachments

1. City Resolution (sample is attached and must contain all provisions listed)
2. Location map
3. Site plan and elevations (if available)
4. Existing conditions photos
5. Redevelopment plan (if it is a redevelopment project)
6. Relocation plan (if applicable)
7. Copies of any funding commitments
8. Evidence of site control
9. Development pro forma that includes such things as sources and uses, financing assumptions of any debt, debt service coverage ratio, loan to value, loan to cost, percent equity and cash on cash return.

LOCATION MAP—WATERFORD EVOLUTION











REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Woodland Creek 5th Addition - Development Agreement					
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 2023-132 approving the Development Agreement for Woodland Creek 5th Addition.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City Council, at their regular meeting on March 20th, 2023, approved the final plat of the Woodland Creek 5th Addition residential subdivision. The Woodland Creek 5th Addition final plat consists of 29 single-family residential villa parcels. The City Council approved the final plat application via Resolution 2023-71 subject to certain conditions including DDK Construction, Inc. entering into a development agreement with the City. City staff have prepared a proposed development agreement for the Woodland Creek 5th Addition project, a copy of which is attached for Council's review and consideration. City staff recommend approval of the development agreement language as proposed. Attachments: 1. 23132res_Approving_Development_Agreement_for_Woodland_Creek_5th_Addn.docx 2. DA Woodland Creek 5th Addition (05-18-2023)_DRAFT.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. 2023-132

**RESOLUTION APPROVING DEVELOPMENT AGREEMENT
FOR WOODLAND CREEK 5TH ADDITION**

WHEREAS, DDK Construction, Inc. (the “**Developer**”) owns real property in the City of Waconia (the “**City**”) identified as PID# 750250300 (the “**Property**”); and

WHEREAS, Developer desires to plat the Property as Woodland Creek 5th Addition, which will consist of twenty-nine (29) residential villa 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 5th day of June, 2023.

Nicole Waldron, Mayor

Attest: _____
Jacqueline Schulze, City Clerk

EXHIBIT 1
Development Agreement

DEVELOPMENT AGREEMENT
FOR
WOODLAND CREEK 5TH ADDITION
CITY OF WACONIA, MINNESOTA

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

RECITALS

WHEREAS, on April 18th, 2022, the City Council of the City (the “City Council”) passed Joint Resolution No. 2022-114, 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, Hartman Communities, LLC (the “Previous Developer”) petitioned the City to plat the Property as WOODLAND CREEK 5TH ADDITION, Carver County, Minnesota (“Woodland Creek 5th Addition”); and

WHEREAS, a copy of the Preliminary Plat for Woodland Creek 5th Addition prepared by Westwood Professional Services, Inc., dated February 25, 2022, and revised May 12, 2022, is attached as Exhibit B (the “Preliminary Plat”); and

WHEREAS, the Previous Developer also applied to rezone the Property as a P.U.D., Planned Unit Development District, pursuant to Section 900.05, Subd. 1, O, of the Waconia City Code; and

WHEREAS, on July 18th, 2022, the City Council passed Resolution No. 2022-208 conditionally approving the Preliminary Plat and the planned unit development; and

WHEREAS, the Previous Developer abandoned its efforts to develop the Property and the Developer has acquired fee title ownership of the Property; and

WHEREAS, pursuant to the Developer’s petition, on March 20th, 2023, the City Council passed Resolution No. 2023-71 conditionally approving the final plat of Woodland Creek 5th Addition drafted by Westwood Professional Services, Inc., a copy of which is attached as Exhibit C (“Final Plat”); and

WHEREAS, Woodland Creek 5th Addition, as platted, will consist of the following:

1. Lots 1 through 19, Block 1, and Lots 1 through 10, Block 2, WOODLAND CREEK 5TH ADDITION, Carver County, Minnesota (the “Residential Lots”); and
2. Outlot A, WOODLAND CREEK 5TH ADDITION (“Outlot A”) – wetland, green space, park

space and storm water ponding; OUTLOT B, WOODLAND CREEK 5TH ADDITION (“Outlot B”) – stormwater ponding, green space, and trails; OUTLOT C, WOODLAND CREEK 5TH ADDITION (“Outlot C”) – upland preservation and future trails; and

3. Certain land and easements 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 Woodland Creek 5th Addition; and

WHEREAS, the City and the Developer further desire to memorialize the planned unit development zoning district previously approved for the Property (the “PUD District”); and

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

1. The Woodland Creek 5th Addition Overall Final Landscape Plan prepared by Westwood Professional Services, Inc. dated _____, 2023 attached as Exhibit D; and
2. Woodland Creek 5th Addition Construction Plans prepared by Westwood Professional Services, Inc. and dated _____, 2023, Revision date _____, 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 Woodland Creek 5th Addition; and

WHEREAS, pursuant to Section 900.05, Subd. 1, O, 5, c, 3, of the Waconia City Code, this Agreement further memorializes for the parties and subsequent owners of the Property the PUD District zoning approved for the Property;

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.
 - 4.2.6. Project Specific Easement. Without limiting the general nature of the above requirements, the Developer agrees to convey a trail easement that complies with Section 4.2.4 above through Lots 15-18, Block 1, WOODLAND CREEK 5TH ADDITION to be located between a setback of 25 feet to 40 feet from Carver Creek in anticipation of a future creek side trail connection as identified in the City of Waconia's 2040 Comprehensive Plan.
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 or the City Public Services Director shall determine the oversizing reimbursement, in his/her reasonable discretion, using pipe pricing provided by the Developer’s contractor. As of the Effective Date of this Agreement, the City anticipates that: i) watermain oversizing from 8 inches to 10 inches will be required for 644 lineal feet of pipe, together with two gate valves and 200 pounds of fittings; and ii) the City will reimburse the Developer \$9,624.00 for this oversizing work.

- 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, future trail, 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. Carver Creek Impact Zone. All areas within 25 feet of Carver Creek shall remain in their natural state and no grading or vegetation removal shall occur within this buffer area. Additionally, the Carver Creek buffer/impact zone areas which extend into future single-family residential parcels shall be identified with signage approved by the City of Waconia and CCWMO and installed by the City pursuant to Section 6.2 above.
- 6.6. Tree Preservation/Restoration/Restitution. Section 900.06, Subd. 8, Section D, of the Waconia City Code includes specific Tree Preservation and Regulation requirements. As such, based on based on the approved final landscape plan, the Developer shall be responsible to submit the tree restitution payment in the amount of \$_____, prior to work commencing on site.
- 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 September 1st, 2023, 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 August 30th, 2024. All Landscape Improvements shall be installed no later than October 6th, 2023. 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. CONVEYANCE OF OUTLOTS TO CITY AND PARK DEDICATION.

10.1. Outlots. The Developer shall convey Outlot A, Outlot B, and Outlot C to the City for the purposes described in the recitals to this Agreement.

10.2. Park Dedication. The City acknowledges the conveyance of Outlot A to the City, City may provide as approved at its time and duration period tree plantings allowed by CCWMO for forestation requirements for the upland preservation area on Outlot C, satisfies the City's park dedication requirements for the land now being platted as Woodland Creek 5th Addition.

10.3. Conveyances. The City and Developer agree the above conveyances shall occur when the Final Plat is recorded. All conveyances shall be made without cost to the City. Further, the purposes listed in this Agreement for such conveyances are informational only and do not limit the City's ability to use any parcel conveyed to the City for any use. The Developer shall deed all such Outlots to the City using a standard form warranty deed. The warranty deed conveying such Outlots shall not list any restrictions or exceptions to title other than the following: i) the lien of real estate taxes and special assessments not yet due and payable; ii) building, zoning and subdivision statutes, laws, ordinances, and regulations; and iii) reservations of minerals or of mineral rights in favor of Minnesota, if any. As such, the Developer shall release all other liens and encumbrances against such properties, including any mortgages or other monetary liens, prior to conveyance. Further, upon the City's request, the warranty deed shall waive any rights under Minnesota Statutes, Minnesota Statutes §117.226, as amended, to reacquire the real property.

11. PUD ZONING. The Residential Lots on the Property shall comply with the following zoning requirements:

11.1. General. Waconia City Code ordinances and regulations applicable to the R-1, Single-Family Residential District, and the Shoreland Overlay District (the "Base Zoning") shall apply to the Property, except as expressly modified in Section 11.2 below.

11.2. PUD. The following PUD zoning applies:

11.2.1. typical lot size shall be 55 feet wide by 135 feet long;

11.2.2. the maximum impervious surface for each lot shall be 50%;

11.2.3. the minimum front yard/right-of-way setback for each lot shall be 25 feet;

11.2.4. the minimum side yard setback for each lot, except corner lots, shall be 7.5 feet;

11.2.5. the minimum side yard setback for corner lots shall be 20 feet;

- 11.2.6. the minimum rear yard setback for each lot shall be 25 feet;
- 11.2.7. notwithstanding anything to the contrary above, the minimum setback for each lot from the OHWL of Carver Creek shall be 50 feet;
- 11.2.8. notwithstanding anything to the contrary above, the minimum setback from the edge of a designated wetland shall be 50 feet;
- 11.2.9. notwithstanding anything to the contrary in this Agreement, all area located within 25 feet of Carver Creek (i.e., the Carver Creek Impact Zone) shall remain natural and signed accordingly by the City as identified in Section 6.2 regarding the Developer Funded Municipal Improvements.
- 11.2.10. Notwithstanding anything to the contrary in this Agreement, all area located within the wetland buffer areas shall remain natural and signed accordingly by the City as identified in Section 6.2 regarding the Developer Funded Municipal Improvements.

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 \$1,711,385.00 (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 \$42,188.00 (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:

DDK Construction, Inc.
2970 Chaska Boulevard

Chaska, MN 55318
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 WOODLAND CREEK 5TH ADDITION

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 WOODLAND CREEK 5TH ADDITION

DDK CONSTRUCTION, INC.

By: _____
Durene Klingelhutz, President

STATE OF MINNESOTA)
)
COUNTY OF CARVER _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Durene Klingelhutz, President, DDK Construction, 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

That part of the following described property:

That part of the Southwest Quarter of the Southwest Quarter of Section 25, Township 116 North, Range 25 West of the 5th Principal Meridian, which lies Westerly of the following described line:

Commencing at the southwest corner of said Southwest Quarter of the Southwest Quarter; thence East along the South line of said Southwest Quarter of the Southwest Quarter a distance of 700 feet to the point of beginning of the line being described; thence deflecting left 90 degrees a distance of 230 feet; thence Northeasterly to a point on North line of said Southwest Quarter of the Southwest Quarter distant 150 feet Westerly, as measured along said North line, from the Northeast corner of said Southwest Quarter of the Southwest Quarter, and said line there ending.

Lying northerly of the following described line:

Commencing at the southwest corner of said Southwest Quarter of the Southwest Quarter; thence South 89 degrees 33 minutes 49 seconds East, assumed bearing along the south line of said Southwest Quarter of the Southwest Quarter a distance of 700.00 feet; thence North 00 degrees 26 minutes 11 seconds East, a distance of 230.00 feet; thence North 23 degrees 43 minutes 01 seconds West, a distance of 616.05 feet to the point of beginning of the line to be described; thence South 65 degrees 37 minutes 45 seconds West, a distance of 395.52 feet; thence South 89 degrees 33 minutes 40 seconds West, a distance of 341.04 feet; thence North 54 degrees 28 minutes 40 seconds West, a distance of 312.54 feet to the west line of said Southwest Quarter of the Southwest Quarter and said line there terminating.

Preliminary Plat for Woodland Creek 5th Addition

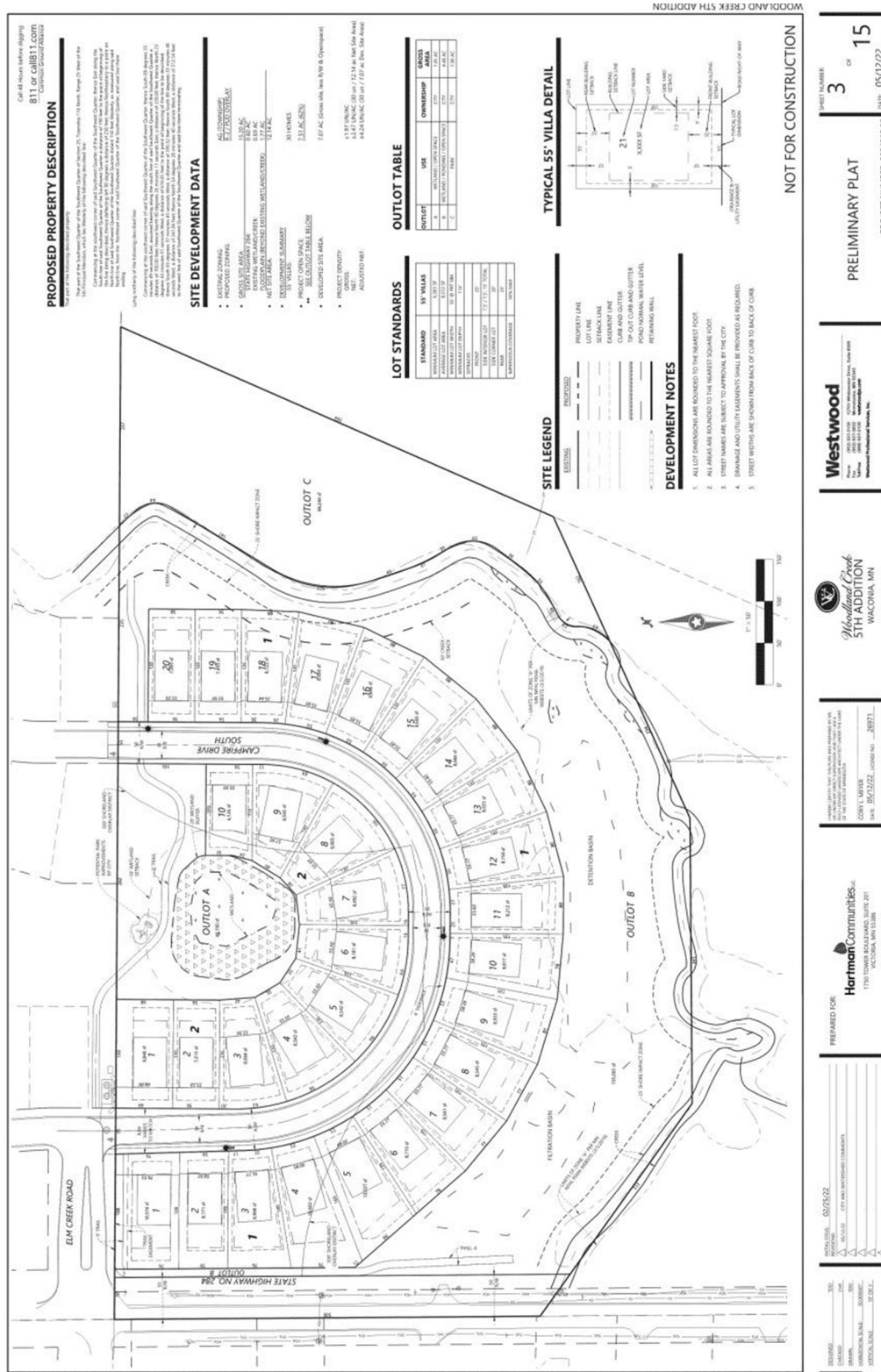


EXHIBIT C

Final Plat for Woodland Creek 5th Addition

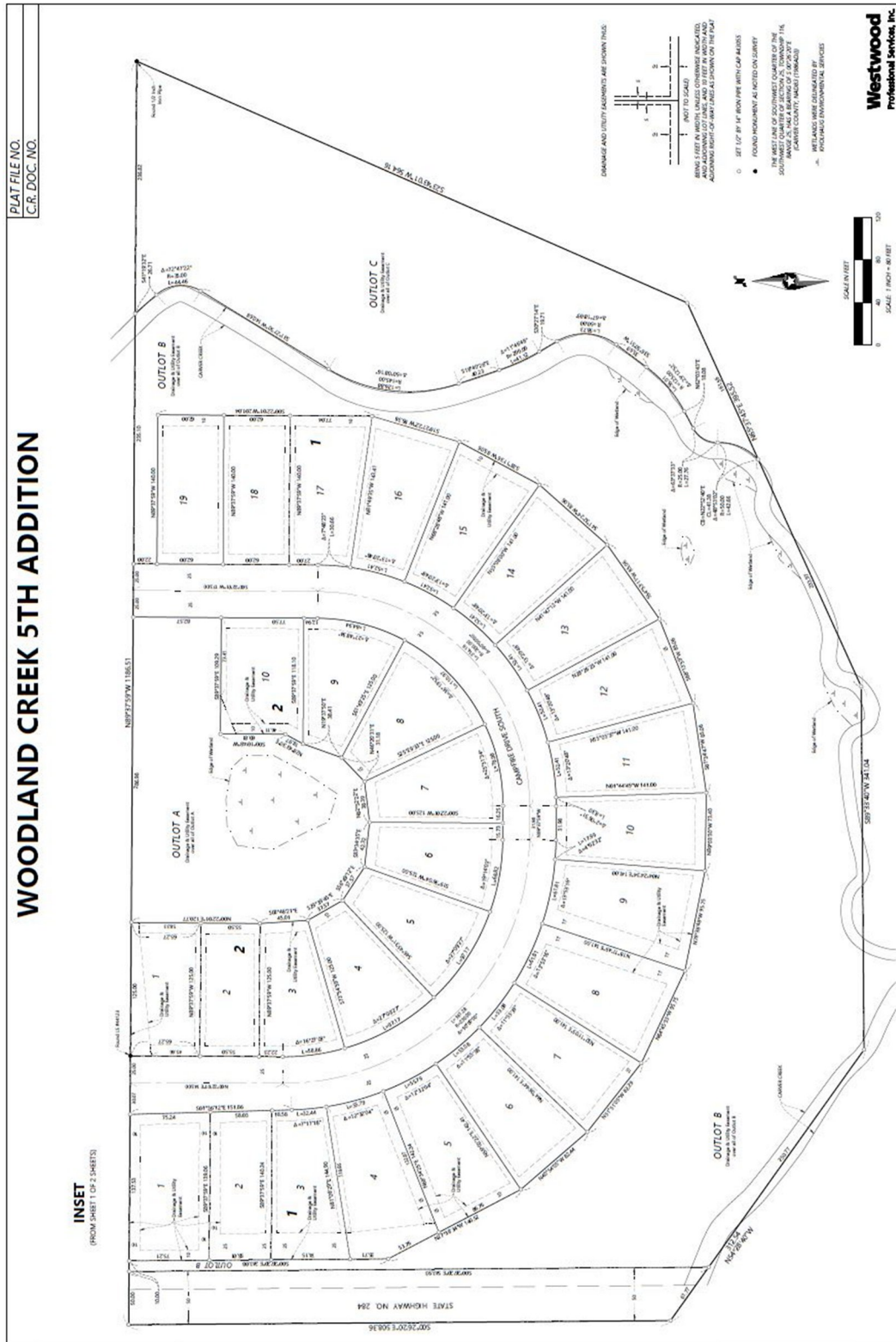


EXHIBIT D
Landscape Plans

[INSERT]



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Approve Contract with Youth Sports Plus for Waconia Ice Arena					
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>							
Adopt Resolution 2023-133, Approving Contract with Youth Sports Plus for Waconia Ice Arena							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The Waconia Ice Arena has been approached by users that they would like the ability to stream hockey games out of the arena. This would allow people who are unable to attend the games to view them online. To set up the program, Youth Sports Plus (YSP) would pay for all internet installation and any monthly service fee for the camera and internet feed. It was important to the City that any streaming occurred outside of the City's secure network and on a separate internet, which YSP is able to accommodate. YSP allows authorized users to record practices/hockey games. Authorized users of the program would include Ice Arena staff, MN Steele, WHA, and WHS. Open skate/lessons are blacked out to ensure they are not broadcast to the public. In addition, YSP can use their sports commentators to do play by play at games if they choose to do so. People purchase individual games or seasonal passes to watch the games. 25% of net pay-per-view of all high school and designated sponsored games and tournaments are paid to the Ice Arena on a quarterly basis. Upon authorization of this contract, Ice Arena staff will work with YSP to schedule installation. This agreement comes at no cost to the City or Ice Arena. <u>Attachments:</u> 1. 23133res_Youth_Sports_Plus.doc 2. YSP Waconia Video Services Venue Agreement 2023.04.12.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. 2023-133**

**RESOLUTION APPROVING CONTRACT WITH YOUTH SPORTS PLUS
FOR STREAMING SERVICES AT ICE ARENA**

WHEREAS, the City of Waconia owns the Waconia Ice Arena; and

WHEREAS, the Ice Arena would like the ability to stream hockey games for both the Waconia Hockey Association, MN Steele, and High School programs; and

WHEREAS, Youth Sports Plus offers the ability to install their own internet and streaming cameras within the Ice Arena and Ice Arena staff are able to control when streaming occurs; and

WHEREAS, the City gets back 25% of pay-per-view of all high school and designated sponsored games and tournaments; and

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby approves the contract with Youth Sports Plus and authorize the City Administrator to execute the agreement.

Adopted by the City Council of the City of Waconia this 5th day of June, 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk

VIDEO SERVICES VENUE AGREEMENT

THIS VIDEO SERVICES VENUE AGREEMENT (“**Agreement**”) made this 15th day of March 2023 (“**Effective Date**”) by and between City of Waconia, (“**Customer**”) and Range, Inc., a Minnesota corporation, dba Youth Sports Plus (“**Youth Sports Plus**”; Customer and Youth Sports Plus collectively “**Parties**” and sometimes individually “**Party**”).

WHEREAS, Waconia Ice Arena is located at 1250 Oak Avenue, Waconia MN 55387, (the “**Ice Arena**”).

WHEREAS, Youth Sports Plus and Customer wish to enter into this Agreement pursuant to which Youth Sports Plus will install at the Ice Arena a sports broadcasting system for the delivery of live and/or on-demand video to internet-connected devices such as smartphones, computers, or tablets (“**Broadcast Service**”).

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

1. **VIDEO SERVICES.** The Customer authorizes Youth Sports Plus to manage, install, and operate video cameras and associated hardware, software, and wiring (“**Video Cameras**”) within the Ice Arena in accordance with the Contract Documents (defined below), and without any obligation financial or otherwise to the Customer related to this provision or any other provision of this Agreement. The purpose of the Video Cameras is to allow Youth Sports Plus to provide Broadcast and Coaching Video Services. The operation of the Video Cameras shall not unreasonably interfere with the Customer’s use of the Ice Arena. No installation, maintenance, or removal of the Video Cameras by Youth Sports Plus shall occur until approved by the Customer’s Manager or his or her designee (“**Ice Arena Manager**”). Any such work shall be completed in the manner so approved. Youth Sports Plus shall promptly repair any damage to the Ice Arena because of such work. If Youth Sports Plus fails to timely make such repairs, the Customer may, but is not obligated to, make such repairs and Youth Sports Plus shall pay all costs of Customer associated with such repair within 30 days of billing from Customer. The requirement regarding repair shall survive termination or expiration of this Agreement.
2. **CONTRACT DOCUMENTS.** The following documents shall be referred to as the “**Contract Documents**”, all of which shall be taken together as a whole as the contract between the Parties as if they were set verbatim and in full herein:
 - A. This Agreement; and
 - B. Youth Sports Plus’s proposed Scope of Services attached hereto as **Exhibit A**.

In the event of a conflict among the provisions of the Contract Documents, the order in which they are listed above shall control in resolving any such conflicts, with Contract Document A having the priority and Contract Document B having the last priority. Any termination or expiration of any of the Contract Documents shall terminate all the Contract Documents.

VIDEO SERVICES VENUE AGREEMENT

3. **BROADCAST SERVICE.** All content broadcast using the Broadcast Service, including the video and audio relating to all sports and recreational activities occurring on or in each sports facility (collectively, the “**Content**”), will be made available to Youth Sports Plus’s subscribers on an annual, monthly, or daily subscription basis, subject to sections 5 and 6 below. Youth Sports Plus will determine the pricing for its offerings of the Broadcast Service. From time to time, Youth Sports Plus may provide a free trial at its discretion.
4. **OWNERSHIP RIGHTS.** Youth Sports Plus shall be the exclusive owner of all rights in and to the Content and shall have the exclusive right to broadcast the Content for all purposes and any manner consistent with applicable laws it determines in its sole discretion, including by providing its broadcast signal to national broadcasters and digital media distributors. Without limiting the foregoing, Customer acknowledges that online distributions of the Content from the Ice Arena will be made available to all subscribers of the online Broadcast Service, subject to sections 5 and 6 below. Customer shall have the sole obligation to notice its own customers, invitees, and sports programming participants of the existence of this Agreement and of the presence of Video Cameras within the Ice Arena.
5. **BROADCAST RESTRICTIONS.** Youth Sports Plus will provide Customer with the ability, at its sole discretion, to restrict viewer access to any broadcast from its facility to a pre-selected potential audience for privacy purposes. Youth Sports Plus will broadcast only games and practices from the following tenants:
- **Waconia Girls and Boys High School Hockey Teams**
 - **Waconia Hockey Association Teams**
 - **Minnesota Steel Hockey Club**
- All other broadcasts will not be streamed unless pre-approved by the Ice Arena Manager.**
6. **CHANGE ORDERS.** The Customer must approve all change orders, regardless of amount, in advance and in writing.
7. **COMPLIANCE WITH LAWS AND REGULATIONS.** Youth Sports Plus shall abide by all local, state, and federal statutes, ordinances, rules, and regulations.
8. **INSURANCE.** Youth Sports Plus shall secure and maintain such insurance as will protect Youth Sports Plus from claims under the Worker’s Compensation Acts, automobile liability, and from claims for bodily injury, death, or property damage that may arise from the performance of services under this Agreement. Such insurance shall be written for amounts not less than:

Commercial General Liability	\$2,000,000 each occurrence/aggregate
Automobile Liability	\$300,000 combined single limit

The Customer shall be named as an additional insured on the general liability policy. Before commencing work, Youth Sports Plus shall provide the Customer a certificate of insurance evincing the required insurance coverage in a form acceptable to the Customer. The Customer and shall be named as additional insured on the certificate of insurance. Should the policy be cancelled or not renewed for any cause prior to expiration date thereof, the issuing company shall mail a thirty (30) day written notice to the Customer, except such notice shall be ten (10) days for non-payment of premium. Regardless of any other terms herein, cancellation or expiration of the insurance policy or certificate of insurance required herein and failure to provide another insurance policy or certificate of insurance that is satisfactory to the Customer shall be grounds for automatic termination of this Agreement. This insurance requirement shall survive termination or expiration of this Agreement until any post-termination requirements herein of Youth Sports Plus are completed.

VIDEO SERVICES VENUE AGREEMENT

9. **INDEMNIFICATION.** It is fully understood and agreed by the Parties that Youth Sports Plus shall fully defend, indemnify, and hold harmless the Owner of Waconia Ice Arena, and their respective elected and appointed officials, officers, employees, volunteers and agents (collectively, the “**Indemnified Parties**”), against any and all liabilities, claims, damages, losses, costs and expenses (including reasonable attorneys’ fees) arising indirectly or directly in connection with or under, or as a result of this Agreement, and regardless of whether the Indemnified Parties caused or contributed to the injuries or damages, in whole or in part. This indemnification obligation shall include, without limitation, any injuries to Youth Sports Plus employees, agents, or contractors, regardless of the cause of those injuries or damages. This indemnification obligation shall survive termination or expiration of this Agreement.
10. **CONTROLLING LAW/VENUE.** It is agreed that this Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Minnesota. Any legal suit, action, or proceeding arising out of this Agreement shall be instituted in state court located in Crow Wing County, Minnesota, and each Party irrevocably submits to the exclusive jurisdiction of such court in any such suit, action, or proceeding. The Parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.
11. **MINNESOTA GOVERNMENT DATA PRACTICES ACT.** Youth Sports Plus must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to (1) all data provided by the Customer pursuant to this Agreement, and (2) all data, created, collected, received, stored, used, maintained, or disseminated by Youth Sports Plus pursuant to this Agreement. Youth Sports Plus is subject to all the provisions of the Minnesota Government Data Practices Act, including but not limited to the civil remedies of Minnesota Statutes § 13.08, as if it were a government entity. In the event Youth Sports Plus receives a request to release data, Youth Sports Plus must immediately notify the Customer. The Customer will give Youth Sports Plus instructions concerning the release of the data to the requesting party before the data is released. Youth Sports Plus agrees to defend, indemnify, and hold the Customer, its officials, officers, agents, employees, and volunteers harmless from any claims resulting from Youth Sports Plus’s officers’, agents’, cities’, partners’, employees’, volunteers’, assignees or subcontractors’ unlawful disclosure and/or use of protected data. The terms of this paragraph shall survive the cancellation or termination of this Agreement.
12. **COPYRIGHT.** Youth Sports Plus shall defend actions or claims charging infringement of any copyright or software license by reason of the use or adoption of any software, designs, drawings, or specifications supplied by it, and the indemnification in Section 10 shall also include loss or damage resulting therefrom.
13. **PATENTED DEVICES, MATERIALS, AND PROCESSES.** If the Contract requires, or Youth Sports Plus desires, the use of any design, device, material, or process covered by letters, patents or copyright, trademarks, or trade name, Youth Sports Plus shall provide for such use by a suitable legal agreement with the patentee or owner and a copy of the said agreement shall be filed with the Customer. If no such agreement is made or filed as noted, Youth Sports Plus shall indemnify and hold harmless the Customer from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or trade name or copyright in connection with the services agreed to be performed under the Contract, and shall indemnify and defend the Customer for any costs, liability, expenses and attorney’s fees that result from any such infringement.

VIDEO SERVICES VENUE AGREEMENT

14. **ASSIGNMENT.** Neither Party shall assign this Agreement, nor any interest arising herein, without the written consent of the other Party.
15. **WAIVER.** Any waiver by either Party of a breach of any provisions of this Agreement shall not affect, in any respect, the validity of the remainder of this Agreement.
16. **NO THIRD-PARTY BENEFICIARIES.** This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person or entity who is not a Party, or to acknowledge, establish or impose any legal duty to any third party.
17. **ENTIRE AGREEMENT.** The entire agreement of the Parties is contained herein. This Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof, as well as any previous agreements presently in effect between the Parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when expressed in writing and duly signed by the Parties, unless otherwise provided herein.
18. **TERM AND TERMINATION.** The term of this Agreement commences on the Effective Date and shall remain in full force and effect for 48 full months from the Effective Date (“**Term**”), unless earlier terminated as forth herein. This Agreement may be terminated upon ninety (90) days’ written notice by either Party. In the event of termination, Youth Sports Plus shall pay the Customer all money due to the date of termination. Upon termination of this Agreement by expiration of the term or for any other reason, Youth Sports Plus shall, at its own cost and expense remove all Video Cameras from the Ice Arena. If Youth Sports Plus fails to remove the Video Cameras upon termination, the Video Cameras shall be considered abandoned and the Customer may, but is not obligated to, remove the Steaming Cameras. Youth Sports Plus shall pay all costs of Customer associated with such removal within 30 days of billing from Customer. This Section shall survive termination.
19. **SUPPLY OF BROADCAST SERVICES.** Youth Sports Plus will use reasonable skill and care to make the Broadcast Service available throughout the Term. Notwithstanding that, Youth Sports Plus shall have no responsibility, liability, or obligation whatsoever to Customer, or any third party for any interruptions of the Broadcast Service. Youth Sports Plus may, without any liability to Customer, suspend the supply of all or part of the Broadcast Service upon giving Customer notice. This would occur if the Youth Sports Plus equipment is repeatedly damaged or cannot supply the Broadcast Service. Customer will notify Youth Sports Plus immediately of any interruption malfunction of the Broadcast Service. Youth Sports Plus will repair or replace at its cost any malfunctioning components which is required. Any required service, repair, or replacement will be mutually scheduled between Youth Sports Plus and Customer. Occasionally, there may be need for onsite adjustments requiring assistance from a technologically able person at the Ice Arena. The customer will be responsible for supplying such people when necessary.
20. **PUBLIC NOTICE.** Customer agrees to put notices at the Ice Arena, advising the public that the Ice Arena is monitored by video cameras for security, safety, and commercial purposes and participants waive any claim relating to capture of public transmission of their or their child’s participation while at the Ice Arena. Customer shall make any third-party users of the Ice Arena to disclose the existence of the Video Cameras and the Broadcast Service and requiring those third parties to notify all their users of the Ice Arena of the above.

**VIDEO SERVICES
VENUE AGREEMENT**

21. **NOTICES.** All notices, demands or requests required or permitted to be made pursuant to or under this Agreement must be in writing and deemed valid if sent by registered mail, return receipt requested, or delivered by overnight delivery service providing written evidence of delivery, or by hand delivery by a reputable independent courier providing written evidence of delivery, addressed as follows (either Party may change the designated recipient of a notice by so notifying the other Party in writing as provided for above):

CUSTOMER:

City of Waconia
201 South Vine St.
Waconia, MN 55387
Attention:

**YOUTH SPORTS
PLUS:**

Youth Sports Plus
1022 Madison Street
PO Box 978
Brainerd MN 56401
Attention: Shawn Sundquist

22. **INTERNET CONNECTION.** YSP shall provide access to the Ice Arena internet connection to allow for the Video Cameras to be utilized for the Broadcast Service. YSP will install or upgrade the proper internet connection if the Ice Arena internet connection is inadequate to service the Broadcast Service.
23. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which are redeemed an original and all of which taken together will be redeemed to be one Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date indicated below.

Customer:
City of Waconia

Youth Sports Plus:
Range, Inc., a Minnesota corporation,
dba Youth Sports Plus

Date: _____

Date: _____

By: _____
Its: Chair

By: Shawn Sundquist
Its: _____

By: _____
Its: Director

Email:
ssundquist@youthsportsplus.com
Phone: _____

**VIDEO SERVICES
VENUE AGREEMENT**

Exhibit A

OVERVIEW

This agreement provides for the business terms between Youth Sports Plus (known as MNHockey.Tv) and the Waconia Ice Arena in Waconia, MN to manage a video camera in the arena. This agreement is for four calendar hockey seasons beginning on April 1st, 2023 and running through March 31st, 2027.

GOALS

The management of the camera system installed at Activity Center Arena and the related management services provided by **YSP** will support the following goals:

1. Deliver live Video Services of designated youth, club, and high school hockey games in the arena.
2. Deliver revenue for Waconia Ice Arena through live Video events.
3. Provide camera services for use by the Spiideo and TPE coaching tools.

SPECIFICATIONS

YSP will manage and operate the one-camera system installed that includes scheduling designated games of the contracted organizations listed in the goals section. Viewer support will be provided by YSP for the service. YSP will provide quarterly reports of venue performance to the Waconia Ice Arena manager by the 30th of the following month. The quarterly report will be provided with a partner payment by the 30th of the month following the conclusion of each quarter. The terms of the revenue share are outlined below. All scheduling will be done by the YSP staff with communication on the monthly/quarterly reports also coming from the YSP staff. The cameras will only be live for these designated events.

VIEWING COMPONENTS

YSP will schedule the games and events onto the Video platform to provide Video services for the following types of hockey events and games:

1. Pay-per-view (PPV) for designated games and tournaments.
2. Pay-per-view (PPV) for high school, youth, and club hockey games.
3. Video access for youth, club, and high school coaching sessions.

PAY-PER-VIEW PV PROGRAM

A pay-per-view amount for a season pass, tournament pass, and per-game pass will be made available on a paywall created by **YSP** and made available on the MNHockey.Tv. The service will feature an exclusive Waconia Ice Arena live video portal and video platform that can be shared on all supporting websites if desired by the Waconia Ice Arena. All games are available on YSP's hockey-specific website – **MNHOCKEY.TV**.

REVENUE SHARE AND AD SHARE

Youth Sports Plus will share revenue with Waconia Ice Arena as follows:

1. 25% of net Pay-per-View (PPV) receipts of all high school and designated sponsored games and tournaments will be paid to Waconia Ice Arena on a quarterly basis with payments made on the 30th of the following month of the quarter's end. Waconia Ice Arena may share a portion of these receipts with their high school, club and youth teams playing games in the arena.
2. 75% of net PPV receipts for all high school and designated youth-sponsored events will be paid to **YSP**.
3. Net PPV receipts are defined as Gross PPV receipts less direct production costs for the event.

Example:

100 Viewers at \$10 per person - \$1,000

Production Cost - \$100

Net Distribution - \$900

Waconia Share - \$225 (this share can be split with schools, youth and club.)

YSP Share - \$675

Youth Sports Plus SERVICES INCLUDE:

1. Live Video portal.
2. E-Commerce platform for customer purchases of packages.
3. Provided video embed codes from the portal to all sites requested from Waconia Ice Arena.
4. Schedule management in the portal and communications of events.
5. Marketing of games, tournaments, and events.
6. Customer support for viewers.
7. Monthly and quarterly reports.

AGREED BY:

Waconia Ice Arena

Name: _____

Email: _____

Phone: _____

Youth Sports PLUS

Name: _____

Email: ssundquist@youthsportsplus.com

Phone: (925) 769-6513



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Authorize Hire for Finance Clerk					
Originating Department:		Administration					
Presented by:		Jackie Schulze					
Previous Council Action (if any):		March 20, 2023: Authorize Recruitment for Finance Clerk					
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 2023-134, Approving Finance Clerk Hire.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
As part of the 2023 budget, the City authorized the addition of a Finance Clerk position. After an initial round of interviews, staff made the decision to re-open the position to the public. In total, staff interviewed every applicant who applied, conducting 16 total interviews. Following the interviews, City staff recommend hiring Carrie Krienke for this role. Carrie has ten years of municipal finance experience with the cities of Orono, Maple Lake, and Annandale. She has experience in almost every single area we are looking for this position to take over and we feel she would not have a steep learning curve in terms of the ins and outs of this position. Carrie will start at Step 5 of the Finance 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 to accommodate a planned summer vacation. Her start date is scheduled to be on June 20.							
<u>Attachments:</u>							
1. 23134res_Finance_Clerk_Resolution.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 - 134**

**RESOLUTION AUTHORIZING
FINANCE CLERK HIRE**

WHEREAS, on March 20, 2023, the City Council authorized the recruitment for the Finance Clerk position; and

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

WHEREAS, staff recommend the appointment of Carrie Krienke to this position;

WHEREAS, Carrie will start at Step 5 on the Finance Clerk pay scale, accrue PTO at the five year accrual rate, and 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 Carrie Krienke, effective June 20, 2023.

Adopted by the City Council of the City of Waconia this 5th day of June, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Donation Acceptance & Pass Thru Recommendation - Cash Donation for Fire Safety & Prevention Efforts					
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 2023-135, Accepting Cash Donations for Fire Safety and Prevention Efforts and Approving Pass Thru to the National Fire Safety Council							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City of Waconia received several cash donations for fire safety and prevention efforts. The following parties donated to the City's fire department for these efforts: South Point Finance Credit Union - \$105.00 With the Council's acceptance of these donations, staff will recognize the donation as revenue in the fire department's 2023 budget. The City works with the National Fire Safety Council for fire prevention materials and information. The donations received will be passed thru to them so they can assist the department in future efforts. <u>Attachments:</u> 1. 23135res_Donations_Received_Fire_06.05.23_National_Fire_Safety.doc							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: General Fund - Fire (101)							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
☒ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-135**

**RESOLUTION ACCEPTING CASH DONATIONS FOR FIRE SAFETY AND PREVENTION
EFFORTS AND APPROVING PASS THRU TO THE NATIONAL FIRE SAFETY COUNCIL**

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>
South Point Finance Credit Union	Cash Donation for Fire Safety/Prevention	\$105.00

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, donations will be passed thru to the National Fire Safety Council for their efforts in providing the City with fire safety and prevention materials; 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 used for the designated purposes.
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 5th day of June, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Donation Acceptance - Cash Donation for Maintenance of City Public Cemetery					
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 2023-136, Accepting Cash Donation for Maintenance of City Public Cemetery							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City received a cash donation of \$50.00 from Gerald & Mary Volkenant for maintenance of the City's public cemetery. The funds have been recorded as a donation in the General Fund - Parks budget. The donor asked that the funds be used for maintenance and clean-up of the property. <u>Attachments:</u> 1. 23136res_Donations_Received_Parks_06.05.23.doc							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
General Fund - Parks							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
X _____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-136**

RESOLUTION ACCEPTING CASH DONATION FOR CITY CEMETERY MAINTENANCE

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>
Gerald & Mary Volkenant	Cash	\$50.00

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 maintenance of the City's cemetery property.

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 acknowledging the City's receipt of the donor's contribution.

Adopted by the City Council of the City of Waconia this 5th day of June, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Acceptance of Grant Proceeds from Board of Water & Soil Resources - Downtown Storm Water Reuse Improvement					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):		Resolution 2022-259 - Resolution Authorizing Approval of Application for Board of Water & Soil Resources Watershed Based Infrastructure Fund (WBIF) Grant & Public Services Director as Administrator of Grant - Dated: September 19, 2022					
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 2023-137, Accepting Grant Proceeds from Board of Water & Soil Resources - Downtown Storm Water Reuse Improvement							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
In September 2022, staff completed an application for a grant from the Board of Water and Soil Resources for the 2023 downtown storm water reuse improvement. The total cost of the project is estimated to be \$1,192,000 with \$600,000 of the project paid by grants and \$592,000 paid from cash in the storm water utility fund. The City was granted an award of \$200,000. The City received \$100,000 on May 18, 2023 and will receive the remainder of the grant funds when phase 1 of the project is completed. Funds received will be recorded as grant revenue in the storm water utility fund and expenditures will be recorded and capitalized in the same fund.							
Attachments: 1. 23137res Acceptance_of_Grant_Funds_-_Storm_Water_Reuse.doc							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Storm Water Utility Fund							
Budget Information:				Planning Commission			
☒ Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-137**

**RESOLUTION ACCEPTING GRANT PROCEEDS FROM BOARD OF WATER AND
SOIL RESOURCES WATERSHED BASED INFRASTRUCTURE FUND –
DOWNTOWN STORMWATER REUSE IMPROVEMENT**

WHEREAS, City staff applied for a grant for the downtown stormwater reuse improvement project; and

WHEREAS, the City's total costs for the project are estimated to be about \$1,192,000 with \$600,000 paid from grant proceeds and \$592,000 from fund balance in the storm water utility fund; and

WHEREAS, the City received 50% (\$100,000) of the grant proceeds in advance of the work to be completed in 2023 and will receive the remaining 50% (\$100,000) after work is completed at the site and inspected.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Waconia hereby graciously accepts the grant proceeds of \$100,000 for the downtown stormwater reuse improvement project from the Board of Water and Soil Resources and acknowledges funds will be recorded in the City's Storm Water Utility Fund as of May 31, 2023.

Adopted by the City Council of Waconia, Minnesota this 5th day of June, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Purchase Agreement with Amcon Outland, Inc. for a portion of 150 Sparrow Road					
Originating Department:		Community Development					
Presented by:		Lane Braaten					
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 2023-139 approving the attached purchase agreement between the City of Waconia and Amcon Outland, Inc. for a portion of the property located at 150 Sparrow Road.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City Council, at a previous closed session, reviewed and considered the sale of a portion of the City owned commercial parcel located at 150 Sparrow Road. Subsequent to the closed session staff have been working with Amcon Outland, Inc. to formalize a purchase agreement for the described property. City staff have worked with Amcon Outland, Inc. on the attached purchase agreement draft. If the Council finds the terms of the agreement acceptable, staff recommend approval of the proposed purchase agreement for a portion of 150 Sparrow Road subject to the findings and conditions stated in the draft resolution.							
Attachments:							
1. Purchase Agreement (Draft 05-31-2023v2).docx 2. 23139res_Approving_Sale_of_Property__Draft_05-31-2023_.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			

PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (“**Agreement**”) is made as of June __, 2023 (“**Effective Date**”), between the City of Waconia, Minnesota, a Minnesota municipal corporation (the “**Seller**”), and Amcon Outland Inc. d/b/a Amcon Construction, a Minnesota Corporation (“**Buyer**”).

In consideration of the mutual terms and provisions of this Agreement, Seller and Buyer agree as follows:

1. Sale of Property. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the following property (collectively, the “**Real Property**” or the “**Property**”):

That portion of the vacant land described as Outlot A, KWIK TRIP 1173, Carver County, Minnesota (“**Outlot A**”) that is labeled “Property” on attached **Exhibit A**, and consists of approximately 1.69 acres (the “**Amcon Parcel**”); and

All easements, CC&R’s or other agreements affecting the Amcon Parcel.

Commencing promptly after the Effective Date, Buyer shall take such action as is necessary, at its expense, to plat Outlot A into two lots (the “**New Plat**”). One lot shall be the Amcon Parcel and the other lot shall be the “Remanent Parcel” depicted on attached **Exhibit A**, which consists of approximately 1.57 acres. In connection with the recording of such plat, Buyer and Seller shall enter into an access easement granting the Remanent Parcel ingress and egress access to Sparrow Road over the Amcon Parcel (the “**Driveway Extension Easement**”). The form of the Driveway Extension Easement shall be mutually acceptable to both Buyer and Seller and shall be recorded, at Buyer’s expense, concurrent with the plat.

2. Purchase Price and Manner of Payment. Four Hundred Four Thousand Eight Hundred Ninety and 20/100 DOLLARS (\$404,890.20) (the “**Purchase Price**”), which shall be paid to Seller, subject to satisfaction of certain due diligence and other contingencies described herein. As a condition of Seller conveying fee title to the Property, the Purchase Price shall be paid to Seller as follows:

2.1 Earnest Money. \$15,000 as earnest money (“**Earnest Money**”), which Earnest Money shall be deposited in an escrow account of All American Commercial Title, (“**Escrow Agent**” or “**Title Company**”) within three (3) business days after full execution and delivery of this Agreement. The Earnest Money shall be applied to the Purchase Price at Closing. The Earnest Money shall become non-refundable after expiration of the Due Diligence Period described below, except in the event of material breach of the Purchase Agreement by Seller, in which case all Earnest Money shall be refunded to Buyer.

2.2 Closing Payment. \$389,890.20 in readily available funds at Closing (as hereinafter defined).

3. Buyer's Contingencies. The obligations of Buyer under this Agreement are contingent upon each of the following:

- 3.1 Seller Obligations, Representations and Warranties. The representations and warranties of Seller contained in this Agreement must be true and correct now and on the Closing Date as if made on the Closing Date and Seller shall have performed all of the obligations required to be performed by Seller under this Agreement, as and when required.
- 3.2 Title. At closing, Buyer shall have received a marked-up Title Commitment or pro forma policy obligating the Title Company to issue the Title Policy described in Section 6.10.
- 3.3 Access and Inspection. Buyer being satisfied in its sole discretion with the results of its due diligence investigation of the Property ("**Due Diligence**"), including without limitation its review and analysis of the Property Information (as defined below), to be completed within ninety (90) days after the Effective Date of this Agreement ("**Due Diligence Period**"). In connection therewith, at any time from and after the Effective Date, Buyer and its representatives, agents and contractors shall have the right to access the Property at all reasonable times for the purpose of conducting physical and visual inspections, investigations, and testing as Buyer deems necessary, including without limitation obtaining an appraisal and survey of the Real Property. Buyer agrees to conduct its Due Diligence so as to minimize any inconvenience to Seller or to tenants of the Property. Buyer shall timely pay all costs and expenses of appraisal, investigation and testing and shall not allow any liens to be filed against the Property for work performed at Buyer's request. Further, Buyer shall repair any damage which it causes to the Real Property, and shall defend, indemnify and hold Seller harmless from all claims, liabilities, liens, damages, and injuries relating to Buyer's activities (excluding liabilities arising from discovery of any existing Hazardous Substances on the Real Property). Seller shall reasonably cooperate with Buyer and its representatives, agents, and contractors to conduct such on-site tests and inspections as Buyer shall deem necessary, at no cost to Seller. Buyer may extend the Due Diligence Period for two additional periods of thirty (30) days each by providing notice to the Seller prior to the expiration of the Due Diligence Period, as the same may have been extended (the "**Extension Deadline**"), along with an additional deposit of \$5,000 per extension, which deposit shall be received by the Title Company prior to the Extension Deadline and shall be treated as part of the Earnest Money for purposes of this Agreement. Buyer's obligations under this Section 3.3 shall survive any termination of this Agreement.
- 3.4 Document Review. No later than 10 days after the Effective Date, Seller shall have provided Buyer with copies of the following items ("**Property Information**"), to the extent such items exist and are in Seller's possession:
 - a. existing ALTA survey;
 - b. a copy of any Phase I and/or Phase II Environmental Report, if any, pertaining to the Real Property, as well as copies of any environmental

- permits or reports and any geotechnical or soil reports pertaining to the Real Property;
 - c. all documents, agreements, studies, reports, inspection reports, real and personal property tax bills, utility bills, approvals of or from any governmental authority, evidence of water rights, plats, maps and plans and specifications;
 - d. any homeowners association or similar entity documents and related records, including without limitation, organizational documents, certificates of good standing, and financial records dating back no less than three (3) years;
 - e. any building or property condition reports, maintenance records, repair and cost records pertaining to the Real Property, and permits and licenses affecting the Property;
 - f. identification of any litigation affecting the Property or any tenants thereof, of which Seller is aware or should reasonably be aware; and
 - g. such other documentation in the possession of Seller related to the ownership, maintenance or operation of the Property as Buyer may reasonably request.
- 3.6 Litigation. As of the Closing, there being no litigation or pending or threatened claims which would limit, impede, threaten or prevent or seek to prevent the consummation of the transaction or have or threaten to have a materially adverse impact on the Property.
- 3.8 Approvals. As of the Closing, Buyer shall have received all necessary governmental approvals desired by Buyer and shall have completed the lot split such that the Real Property is salable as its own separate lot and has its own separate tax parcel identification number (the "Lot Split") and Seller agrees to cooperate with Buyer and sign all documents necessary for Buyer to complete the Lot Split. Buyer shall receive all necessary approvals and permits for its construction of a day care and early childhood learning center on the Property and Buyer's tenant shall receive all necessary approvals and permits pertaining to the operation of the same.
- 3.9 Financing. Prior to the expiration of the Due Diligence Period, Buyer shall receive a financing commitment, on terms acceptable to Buyer, for the construction of the proposed learning center on the Property and the development of the Property.

Seller agrees that in the event Buyer determines that a contingency contained in this Section 3 has not been satisfied on or before the applicable deadline, Buyer shall have the right to terminate this Agreement by written notice to Seller, provided any such notice must be given to Seller prior to the applicable deadline. If Buyer exercises its right to terminate this Agreement because a contingency has not been met, the Earnest Money shall be released to Buyer and upon such return, neither party will have any further rights or obligations regarding this Agreement or the Property. All the contingencies set forth in this Section 3 are specifically stated and are for the sole and exclusive benefit of Buyer. Buyer shall be

deemed to have waived any contingency not raised by a written notice of objection given to Seller prior to the applicable deadline.

4. Mutual Contingency. The obligations of both Buyer and Seller under this Agreement are contingent upon such parties mutually agreeing to the form of the Driveway Extension Easement described in Section 1 prior to Closing. If such contingency has not be satisfied prior to Closing, this Agreement shall automatically terminate and the Earnest Money shall be released to Buyer and upon such return, neither party will have any further rights or obligations regarding this Agreement or the Property.

5. Closing. The closing of the purchase and sale contemplated by this Agreement (the “**Closing**”) shall occur via the parties submitting documents in escrow to the Title Company prior to a date and time to be agreed upon by Seller and Buyer, but no later than _____, 2023, unless otherwise mutually agreed in writing (the “**Closing Date**”). Seller agrees to deliver possession of the Property to Buyer on the Closing Date, subject to Permitted Exceptions (as hereinafter defined).

5.1 Seller's Closing Documents. On the Closing Date, Seller shall execute and deliver to Buyer the following (collectively, “**Seller's Closing Documents**”), all in form and content reasonably satisfactory to Buyer:

5.1.1 Deed. A Limited Warranty Deed conveying the Real Property to Buyer, free and clear of all encumbrances, subject to Permitted Exceptions. The Limited Warranty Deed shall contain the following deed restriction: “For a period of five (5) years from the date of the deed, the property described herein may not be used for any purpose other than a child daycare/learning facility.”

5.1.2 [Intentionally deleted.]

5.1.3 Update Certificate. A certificate, signed by Seller and reasonably acceptable to Buyer, certifying that (a) all Seller’s representations and warranties are true and correct as of the Closing Date, except for exceptions described in Section 8, and (b) the resolutions of the City Council of Waconia authorizing the execution and performance of this Agreement are attached to the certificate and the same have not been modified, replaced or rescinded (“**Update Certificate**”).

5.1.4 [Intentionally deleted.]

5.1.5 FIRPTA Affidavit. A non-foreign affidavit properly executed, containing such information as is required by Internal Revenue Code Section 1445(b)(2) and its regulations.

5.1.6 Seller’s Affidavit; Other Instruments. Seller shall deliver to Buyer an owner’s affidavit as to possession of the Real Property and confirming the absence of liens created by Seller, and such further instruments as

reasonably may be required by Title Company to vest in Buyer fee simple title to the Property, as provided herein.

5.1.7 Well Certificate. If there are any “wells” on the Real Property within the meaning of Minn. Stats. Chapter 103I, a Well Certificate in the form required by law.

5.1.8 Storage Tanks. If the Property contains an underground or aboveground storage tank, or contained an underground or aboveground storage tank that had a release for which no corrective action was taken, an underground or aboveground storage tank affidavit in the form required by law.

5.1.9 Other Documents. All other documents reasonably determined by Title Company to be necessary to convey marketable title to the Property to Buyer free and clear of all encumbrances except Permitted Exceptions.

5.2 Buyer's Closing Documents. On the Closing Date, Buyer will pay the Purchase Price to Seller via wire transfer to an account designated by Seller and execute and deliver to Seller the following (collectively, “**Buyer's Closing Documents**”), all in form and content reasonably satisfactory to Seller:

5.2.1 The Driveway Extension Easement.

6. Prorations.

6.1 Title Evidence and Closing Fee. Seller will pay all reasonable costs of the Title Commitment. Buyer will pay all premiums required for the issuance of the owner's or lender's title policy, any policy of title insurance, the issuance of any endorsements Buyer may request to Buyer's policy or any policy and endorsement costs that may be incurred by Buyer's lender, if any and the cost of any Updated Survey (as hereinafter defined). Seller and Buyer will divide equally the closing fee or charge imposed by any closing agent designated by the Title Company.

6.2 Taxes and Recording Costs. Seller shall pay state deed taxes regarding the Limited Warranty Deed and Buyer shall pay costs of recording the same.

6.3 Real Estate Taxes and Special Assessments. General real estate taxes for the Property shall be prorated between and paid by Seller and Buyer as of the Closing Date in accordance with this Section 6.3. Seller shall pay on or before Closing all of the general real estate taxes and installments of special assessments payable therewith that are or become due and payable (on a cash basis) prior to the Closing Date. Buyer shall be responsible for all of the general real estate taxes and other installments of special assessments payable therewith that are or become due and payable on or following the Closing Date. Seller further acknowledges it will be required to pay any real estate taxes due for the Remanent Parcel in the calendar year Closing occurs as a condition of the New Plat being recorded.

- 6.4 New Plat. Buyer shall pay all costs associated with the New Plat.
- 6.5 Title to be Conveyed. At Closing, Seller shall convey to Buyer by limited warranty deed, fee simple title in and to the Property, free and clear of any and all liens, encumbrances, conditions, easements, restrictions and other conditions except the following, which are referred to herein as the “**Permitted Exceptions**”: (i) matters indicated by the Title Commitment or the Survey (to which Buyer either does not object, or if objected to, are not cured but are subsequently waived by Buyer, as provided below; (ii) liens, encumbrances, adverse claims or other matters which Buyer has created, suffered or permitted to accrue; and (iii) public utility, road, drainage or other easements indicated by the Title Commitment or the Survey to which Buyer either does not object, or if objected to, are not cured but are subsequently waived by Buyer, as provided below.
- 6.6 Seller's Title Evidence. Seller shall within five (5) days after the Effective Date place an order for a commitment for title insurance issued by the Title Company, committing to insure title to the Real Property, properly certified, including proper searches covering bankruptcies, state and federal tax liens, judgments, unpaid taxes, assessments and pending assessments, in the amount of the Purchase Price, together with copies of the recorded documents shown as exceptions therein (“**Title Commitment**”). Buyer may, at Buyer’s sole cost and expense, obtain a survey of the Property prepared by a registered land surveyor selected by Buyer (“**Survey**”), The Title Commitment and the Survey, if obtained by Buyer, are the “**Title Evidence**”.
- 6.7 Buyer's Objections. Buyer shall have ten (10) days after the receipt of the last document comprising the Title Evidence (the “**Review Period**”) to complete its review and render any written objections to Seller as to matters shown on the Title Evidence (“**Objections**”). Buyer shall be deemed to have automatically made Objections to any mortgage, judgment, tax lien, mechanic’s lien or any other monetary lien against the Property, provided the same are not the result of any act by Buyer or any of Buyer’s members, directors, employees, agents, contractors, or representatives (collectively “**Monetary Liens**”). To the extent Buyer fails to give written notice of Objections to Seller prior to the expiration of the Review Period, then all matters not objected to shall be deemed accepted as Permitted Exceptions as defined below.
- 6.8 Seller’s Obligation to Cure. If Buyer shall have timely notified Seller in writing of the Objections, then Seller may, but shall not be obligated to, within 10 days after receipt of the Objections (“**Notice Period**”), provide Buyer with written notice of Seller’s intention to cure the Objections (“**Seller’s Title Cure Notice**”) on or before Closing (the “**Cure Period**”). Except for the Monetary Liens, Seller shall have no obligation whatsoever to cure or attempt to cure any of Buyer’s Objections. If Seller fails to give to Buyer Seller’s Title Cure Notice within the Notice Period, or Seller notifies Buyer in writing that Seller is unable or unwilling to cure the

Objections, then Buyer shall have the option, within seven (7) days after the expiration of the Notice Period to either (i) waive the unsatisfied Objections which shall be deemed Permitted Exceptions, or (ii) terminate this Agreement by delivering written notice to Seller, in which event the Earnest Money, less the Independent Contract Consideration (as defined below), shall be returned to Buyer and neither party shall have any further obligations hereunder, other than any obligations herein that expressly survive termination. If Buyer fails to deliver to Seller a written notice of its election within such 7-day period, Buyer shall be conclusively presumed to have made the election under clause (i) of the preceding sentence.

6.9 Closing Commitment. An exception to title or other title defect other than the Permitted Exceptions added to the Closing Commitment subsequent to the date of the initial Title Commitment, but prior to the Closing Date shall be deemed an "Unpermitted Exception." If an Unpermitted Exception is the result of any act or omission by Seller subsequent to the date hereof, but prior to the Closing Date, then, prior to the Closing Date, Seller shall be affirmatively obligated to cure by deletion by the Title Company or the Title Company's agreement to insure over any such Unpermitted Exception. If an Unpermitted Exception is the result of any act by Buyer or any of Buyer's members, directors, employees, agents, contractors, or representatives subsequent to the date hereof, but prior to Closing, then, such Unpermitted Exception shall become and is a Permitted Exception(s), and Buyer shall be obligated to take title to the Property subject to such additional Permitted Exception(s).

6.10 Title Policy. At Closing, the Title Company shall furnish to Buyer a current standard ALTA owner's policy of title insurance an irrevocable commitment ("mark-up commitment" or "proforma policy") to issue same (the "**Title Policy**"). The Title Policy will be issued by the Title Company, will be in the amount of the total Purchase Price and will insure Buyer's fee simple title to the Property subject to no exceptions other than the Permitted Exceptions.

7. Operation Prior to Closing. During the period from the Effective Date of this Agreement to the Closing Date, Seller shall operate and maintain the Property in the ordinary course of business in accordance with prudent, reasonable business standards, including the maintenance of adequate liability insurance and insurance against loss by fire, windstorm and other hazards, casualties and contingencies, including vandalism and malicious mischief, and will not enter into any leases of the Property without Buyer's prior written consent.

8. Representations and Warranties by Seller. Seller represents and warrants to Buyer as follows:

8.1 Existence; Authority. Seller is Minnesota municipality and has the requisite power and authority to enter into and perform this Agreement and Seller's Closing Documents; such documents have been duly authorized by all necessary action; and such documents are or will be valid and binding obligations of Seller, enforceable in accordance with their terms.

- 8.2 Operation. Seller has received no notice of actual or threatened cancellation or suspension of any utility services or certificate of occupancy for any portion of the Real Property. To the best of Seller's knowledge, the Property is in compliance with all applicable governmental laws, regulations, land use requirements, and permits. Seller has received no notice or complaint from any governmental agency or subdivision of a governmental agency of any legal or regulatory noncompliance related to the Property, including but not limited to notices, orders, suits, judgment or other proceedings relating to fire, building, zoning, air pollution or health violations that have not been corrected. Water and storm water hookups are available directly to the Property and are extended to the Property. Sewer is available on the north side of the larger parcel from which the Property was subdivided/split and Seller agrees that Buyer will have access to said sewer trunk via standard perimeter easements established by the New Plat.
- 8.3 Environmental Laws. To the best of Seller's knowledge, and except as may be disclosed in any environmental reports included within the Property Information or obtained by Buyer, the Real Property and its existing uses comply with, and Seller is not in violation of applicable federal, state, county or municipal or local statutes, laws, regulations, rules, ordinances, codes, standards, orders, licenses and permits of any governmental authorities relating to environmental matters.
- 8.4 FIRPTA. Seller is not a "foreign person," "foreign partnership," "foreign trust" or "foreign estate", as those terms are defined in Section 1445 of the Internal Revenue Code.
- 8.5 Proceedings. There is no action, litigation, investigation, condemnation or proceeding of any kind pending or, to the best knowledge of Seller, threatened against Seller with respect to the Property.
- 8.6 Wells. Seller certifies and warrants that Seller does not know of any "wells" on the Real Property within the meaning of Minn. Stats. Chapter 103I. This representation is intended to satisfy the requirements of that statute.
- 8.7 Storage Tanks. To the best knowledge of Seller, no aboveground or underground tanks as defined in Minn. Stats. Sec. 116.46 are located in or about the Real Property or have been located in or about the Real Property.
- 8.8 [Intentionally deleted.]
- 8.9 Sewage Disposal. Seller has no knowledge that any abandoned individual sewage treatment system on the Real Property.
- 8.10 Methamphetamine. To Seller's knowledge, no methamphetamine has been manufactured on the Real Property.

- 8.12 Rights of Others to Purchase Property. Seller has not entered into another contract for the sale of the Property or any portion thereof, nor are there any rights of first refusal or options to purchase the Property or any portion thereof, or any other rights of others that might prevent the consummation of this Agreement.
- 8.13 Seller's Defaults. To the best knowledge of Seller, Seller is not in any material default concerning any of its obligations or liability regarding the Property that would have an adverse effect on the transaction contemplated herein. Seller has received no notice of any default or breach of any covenants, conditions, restrictions or easements affecting the Property. Seller has not received any notice or complaint from any insurance underwriter relating to the condition or operation of the Property. If Seller receives any such notice at any time prior to Closing, Seller shall notify Buyer of such notice and, at Buyer's request, provide a copy of such notice, if in writing, to Buyer.

References in this Agreement to "the best knowledge of Seller" or similar phrases mean the actual knowledge of Shane Fineran, City Administrator for Seller. If, prior to the Closing Date, either party obtains knowledge of a fact or circumstance the existence of which would constitute a breach by Seller of its representations and warranties under this Agreement or would render any such representations and warranties untrue or incorrect, the party shall promptly notify the other party in writing of the same ("**Discovery Notice**") and Buyer may terminate this Agreement by giving written notice thereof to Seller within 10 days of the Discovery Notice or prior to Closing, whichever date occurs first, in which event the Earnest Money shall be refunded to Buyer. If Buyer does not terminate after a Discovery Notice is given, the untrue representation or warranty shall be deemed an exemption to Seller's representations and warranties. Buyer acknowledges that Buyer will be given a reasonable opportunity to inspect and investigate the Property, either independently or through agents of Buyer's choosing, and that in purchasing the Property, Buyer is not relying upon any representations of Seller except as expressly provided herein.

9. Representations and Warranties by Buyer. Buyer represents and warrants to Seller as follows:

- 9.1 Existence; Authority. Buyer is a Minnesota corporation and has the requisite power and authority to enter into and perform this Agreement and Buyer's Closing Documents; such documents have been duly authorized by all necessary action; and such documents are or will be valid and binding obligations of Buyer, enforceable in accordance with their terms.
- 9.2 Development Intent. Buyer shall develop the Property as a child daycare/learning center.

Any breach of Buyer's representations and warranties shall constitute a material default of this Agreement by Buyer.

10. Casualty; Condemnation. If all or any part of the Property is substantially damaged by fire, casualty, the elements, or any other cause, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving

notice thereof to Seller within thirty (30) days after Seller's notice. If Buyer shall fail to give the notice, then the parties shall proceed to Closing, and Seller shall assign to Buyer all rights to insurance proceeds resulting from such event. If eminent domain proceedings are threatened or commenced against all or any part of the Real Property, Seller shall immediately give notice to Buyer, and Buyer shall have the right to terminate this Agreement and receive back all Earnest Money by giving notice thereof to Seller within thirty (30) days after Seller's notice. If Buyer shall fail to give the notice, then the parties shall proceed to Closing, and Seller shall assign to Buyer all rights to appear in and receive any award from such proceedings.

11. Broker's Commission. Seller and Buyer represent and warrant to each other that they have dealt with no brokers, finders or the like in connection with this transaction to whom they owe an obligation to compensate for such services. Seller and Buyer agree to indemnify each other and to hold each other harmless against all claims, damages, costs or expenses of or for any other such fees or commissions resulting from their actions or agreements regarding the execution or performance of this Agreement, and will pay all costs of defending any action or lawsuit brought to recover any such fees or commissions incurred by the other party, including reasonable attorneys' fees.

12. Assignment. Buyer shall not assign or otherwise transfer this Agreement without obtaining the prior written consent of Seller. Seller shall not unreasonably withhold consent to any assignment to an entity controlled by Buyer.

13. Survival. All of the terms of this Agreement and warranties and representations herein contained shall survive and be enforceable after the Closing for a period of one (1) year.

14. Notices. Any notice required or permitted hereunder shall be given by: (i) personal delivery upon the authorized representative of the party listed below; (ii) mailing in a sealed wrapper by United States mail, return receipt requested, postage prepaid; (iii) deposited cost paid with a nationally recognized, reputable overnight courier, properly addressed as follows; or (iv) by email to the following email addresses:

If to Seller: City of Waconia, Minnesota
Attn: Shane Fineran
201 South Vine Street
Waconia, MN 55387
E-mail: sfineran@waconia.org

With copies to: Seller's Attorney
J. Michael Melchert, Esq.
Melchert Hubert Sjodin, PLLP
121 West Main Street; Ste. 200
mmelchert@mhslaw.com

If to Buyer: Amcon Outland Inc.
Attn: Wayde Johnson
6121 Baker Road, Suite 101

Minnetonka, MN 55345
E-mail: wjohnson@amconconstruction.com

With copies to: Buyer's Attorney:

Dave Buelow, Esq.
Bridge Law Group, Ltd.
2900 Washington Ave. North
Minneapolis, MN 55411
dave@bridgeattorneys.com

Notices shall be deemed effective on date of receipt, the date of mailing or courier deposit as aforesaid; provided, however, that if notice is given by mailing the time for response to any notice by the other party shall commence to run one (1) business day after any such mailing. Any party may change its address by giving notice of such change at least ten (10) days prior to the effective date of such change.

15. Captions; Choice of Law; Etc. The paragraph headings or captions appearing in this Agreement are for convenience only, are not a part of this Agreement, and are not to be considered in interpreting this Agreement. This Agreement constitutes the complete agreement between the parties and supersedes any prior oral or written agreements between the parties regarding the Property. There are no verbal agreements that change this Agreement. This Agreement binds and benefits the parties hereto and their successors and assigns. This Agreement has been made under the laws of the State of Minnesota, and such laws will control its interpretation.

16. Remedies.

16.1 Seller Default. If Seller fails to fulfill any of its obligations hereunder, and such failure continues for more than thirty (30) days following written notice thereof from Buyer, then Seller shall be in default under this Agreement and Buyer may as its exclusive remedy either: (a) enforce specific performance of this Agreement by bringing an action in a court with jurisdiction no later than six (6) months after the date the default first existed, or (b) terminate this Agreement by written notice delivered to Seller, in which event the Earnest Money shall be refunded to Buyer. Seller acknowledges the Property is unique and that money damages to Buyer in the event of default by Seller may be inadequate. Accordingly, Buyer shall be entitled to seek equitable relief to enforce the terms of this Agreement. Under no circumstance shall Seller be liable to Buyer for damages.

16.2 Buyer Default. If Buyer fails to fulfill any of its obligations hereunder, and such failure continues for more than thirty (30) days following written notice thereof from Seller, then Buyer shall be in default under this Agreement and Seller may either: (a) enforce specific performance of this Agreement, or (b) terminate this Agreement by written notice delivered to Buyer, in which event the Earnest Money shall be retained by Seller. In addition, Seller may seek damages for any breach of Buyer's obligations under Section 3.3 of this Agreement.

17. Miscellaneous Provisions.

17.1 Waiver of Trial by Jury. To the extent permitted by law, Seller and Buyer each acknowledge that it is aware of and had the advice of counsel of its choice with respect to any rights to trial by jury, and, to the extent permitted by law, each party does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by either party hereto against the other (and/or against its officers, directors, employees, agents or subsidiary or affiliated entities) on any matters whatsoever arising out of or in any way connected with this agreement, Buyer's use or occupancy of the Property, and/or any claim of injury or damage relating thereto.

17.2 Time of the Essence. Time is of the essence of each and every term, condition, obligation and provision hereof.

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

17.4 No Obligations to Third Parties. The execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties thereto, to any person or entity other than the parties hereto.

17.5 Exhibits. The Exhibits attached hereto are hereby incorporated by reference.

17.6 Amendment. The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties hereto.

17.7 Severability. If any portion of this Agreement shall be adjudged by a court to be void or unenforceable, such portion shall be deemed severed from this Agreement and shall in no way affect the validity or enforceability of the remaining portions of this Agreement, so long as the transaction contemplated hereby may be consummated in accordance with the surviving provisions.

17.8 Time References. Any references in this Agreement to time for performance of obligations or elapsed time shall mean consecutive calendar days, months, or years, as applicable, unless otherwise explicitly indicated herein. In the event that the day on which Buyer or Seller is required to take any action under the terms of this Agreement is not a business day, such action shall be taken on the next succeeding business day. For purposes of this Agreement the term "business day" shall mean all calendar days except for Saturdays, Sundays and nationally and state holidays observed in the State of Minnesota.

17.9 pdf, electronic, or Facsimile Signatures. In order to expedite the transaction contemplated herein, signatures sent by facsimile, electronically, or by .pdf via e-mail may be used in place of original signatures on this Agreement or any other document or agreement in this transaction, other than those to be recorded in the public records. Seller and Buyer intend to be bound by the signatures on each .pdf document, are aware that the other party will rely on the .pdf and/or electronic signatures, and hereby waive any defenses

to the enforcement of the terms of this Agreement or any other such document based on the form of signature.

17.10 1031 Trade by Buyer. Seller acknowledges that it is the intention of Buyer to conduct an IRC Section 1031 Tax-Deferred Exchange and that all or a portion of Buyer's funds will be paid by a Qualified Intermediary to facilitate such exchange. However, the terms, warranties, and representations contained in this Agreement shall remain and be enforceable between the parties executing this document. Seller agrees to cooperate with Buyer and/or its assigns in a manner necessary to enable Buyer to complete said exchange at no additional cost or liability to Seller. This Agreement is part of an integrated, interdependent, mutual and reciprocal plan intended to effectuate an exchange by Buyer of a like-kind real property pursuant to and in accordance with the provisions of Section 1031 of the Internal Revenue Code. Seller shall execute and provide to Buyer prior to closing, an acknowledgement that Seller has received written notice of the expected participation by the Qualified Intermediary. The form of all documents that Seller is asked to sign regarding the exchange shall be reasonably acceptable to Seller.

17.11 Prevailing Party Attorney Fees. In connection with any litigation (including, but not limited to, any appellate proceedings) arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs incurred by such party, including, but not limited to, reasonable attorneys' fees and court costs. The terms of this Section 17.11 shall survive Closing or any earlier termination of this Agreement.

17.12 Entire Agreement. This Agreement embodies the entire agreement between the parties and cannot be varied except by the written agreement of the parties. This Agreement supersedes any prior oral or written agreements between Seller and Buyer regarding the Property.

17.13 Authority. Each individual signing this Agreement hereby represents and warrants to the other party that he or she is fully authorized and empowered to sign this Agreement on behalf of the party for whom he or she is signing, and that this Agreement shall be fully binding on such party.

18. Failure to Develop. If the Buyer fails to commence development of the Property within twelve (12) months of the Closing (the "Post-Closing Period"), then Seller shall have the right, but not the obligation, to repurchase the Property for an amount equal to ninety percent (90%) of the Purchase Price. Seller may exercise such right by delivering notice of its intent to repurchase the property to Seller within sixty (60) days after the Post-Closing Period expires, in which case closing shall occur at a time and location selected by Seller within thirty (30) days after such notice is given. Seller shall have the opportunity to examine title, at its expense, and may cancel the repurchase at any time before the repurchase closing occurs by giving notice of cancellation to Buyer. At closing, the parties shall take such action as is required to terminate any deed restrictions and Buyer shall reconvey the Property to Seller using a limited warranty deed. Each party shall pay its own attorneys' fees and all other costs, excepting the cost of title examination, shall be allocated between the parties at the repurchase closing in the same manner as is described in Section 6 of this Agreement. Further, prior to the repurchase closing, Buyer shall fully pay for all

work performed at Buyer's request regarding the Property and release any mechanic's liens against the Property. For purposes of this Section 18, "commence development" means excavation or grading of the Property in preparation of constructing a building on the Property. Buyer and Seller agree to cooperate in good faith to carry out the intent of this Section 18. Notwithstanding anything in this Agreement to the contrary, the terms of this Section 18 shall survive closing and the delivery of the deed for a period of two (2) years.

19. Governmental Approvals. Buyer acknowledges Seller is a municipal corporation and the Property is located within Seller's municipal boundaries. Nothing in this Agreement grants any approval, permit, or other entitlement regarding the Property nor obligates Seller provide any approval, permit, or other entitlement regarding the Property or any related development. If any approval, permit, or other entitlement is required for Buyer to use the Property for Buyer's intended use, Buyer acknowledges and agrees Buyer, at its expense, will need to apply for each required approval, permit, or entitlement and that each such application will be considered by City staff, the City of Waconia Planning Commission, and the Waconia City Council on its merits pursuant to then applicable laws, regulations, ordinances, and policies. Buyer further acknowledges Seller has not made any representations or warranties regarding future approvals, permits or other entitlements and Buyer assumes the risk that any such application is denied.

Seller and Buyer have executed this Agreement as of the Effective Date.

[Signature pages follow.]

SIGNATURE PAGE TO PURCHASE AGREEMENT

BUYER:

Amcon Outland Inc., a Minnesota Corporation

By: Wayde Johnson/Partner

Date: _____

SIGNATURE PAGE TO PURCHASE AGREEMENT

SELLER:

City of Waconia, a Minnesota municipal corporation

By: Nicole Waldron
Its: Mayor

By: Jacqueline Schulze
Its: Clerk

Date: _____

Exhibit A

Depiction of Property

The Property is a portion of the parcel depicted below:



CITY OF WACONIA
RESOLUTION NO. 2023-139

RESOLUTION APPROVING SALE OF PROPERTY

WHEREAS, the City of Waconia (the “City”) owns a parcel of vacant land described as Outlot A, KWIK TRIP 1173, Carver County, Minnesota, which is outlined with a black line and labeled “150 Sparrow Road” on attached Exhibit A (the “150 Sparrow Road Property”); and

WHEREAS, Amcon Outland Inc., a Minnesota corporation (“Amcon”) has offered to purchase the southerly portion of the 150 Sparrow Road Property, which is approximately 1.69 acres in size and labeled “Property” on attached Exhibit A (the “Property”); and

WHEREAS, Amcon has offered to pay the City the sum of \$404,890.20 for the Property, subject to the terms and conditions of a written Purchase Agreement, the form of which is attached as Exhibit B (the “Purchase Agreement”); and

WHEREAS, the City Council finds the material terms of the proposed sale, as set forth in the Purchase Agreement, acceptable; and

WHEREAS, the City Council further finds it is in the best interests of the City and its residents to accept Amcon’s offer to purchase the Property; and

WHEREAS, pursuant to Minnesota Statutes §462.356, subd. 2, the City Council further finds the sale of the Property has no relationship to the City’s comprehensive municipal plan and the City may dispense with the requirements of Minnesota Statutes §462.356, subd. 2, to the extent such requirements apply; and

WHEREAS, the City will retain ownership of the vacant land labeled “Remanent Parcel” on attached Exhibit A; and

WHEREAS, the City and/or Amcon may need to grant certain access and/or utility easements to allow for the orderly development of the Property and the Remanent Parcel (the “Easements”);

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 sale of the Property to Amcon for the sum of \$404,890.20 is approved, subject to the terms and contingencies contained in the Purchase Agreement.
3. The form of the Purchase Agreement attached as Exhibit C is approved, provided the City Administrator, the Community Development Director, and the City Attorney are each authorized to make any revisions to the Purchase Agreement on the City’s behalf that they deem necessary or desirable without seeking further approval of the City Council.

4. The City Administrator, the Community Development Director, and the City Attorney are each further authorized to negotiate and prepare any Easements deemed necessary or desirable to facilitate the development of the Property and the Remanent Parcel 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 Purchase Agreement, the Easements, and any other documents they deem necessary or desirable to facilitate the transactions described in this resolution including, but not limited to, a limited warranty deed for the Property. 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 Purchase Agreement or incurred by the City to meet its obligations under the Purchase Agreement including, but not limited to, costs associated with title examination, title correction, preparations of Easements, transfer taxes, and closing costs.

Passed and adopted by the City Council of the City of Waconia this 5th day of June, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

EXHIBIT A
Diagram of Property



EXHIBIT B
Form of Purchase Agreement

Attached after this sheet.



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		June 5, 2023					
Item Name:		Authorize Obtaining Quotes for Storm Sewer Improvements					
Originating Department:		Public Services					
Presented by:		Craig Eldred					
Previous Council Action (if any):		None					
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 2023-140; Authorizing Obtaining Quotes For Olive & Elm Street Alley Improvements							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The request of City Council is to for Staff and City Engineer to obtain quotes for storm water improvements for the alley located between Olive Street South and Elm Street South. For the existence of the alley, drainage has overtopped the sidewalk adjacent Olive Street South and eventually captured in the storm system inlet near Second Street West. In calendar year 2022 the new Uptown Apartment structure was approved for construction. Previously in 2014, storm water improvements were designed and put into place with no confirmed outlet for the Nagel Assisted Living Improvements on Elm Street. The focus of this overall improvement is to capture the previous storm water from Nagel Assisted Living and a portion of the Uptown Apartment complex as a overflow feature and reduce the hard surface and capture of storm water for slowing release of storm water to our current storm system directed to Fountain Park. This improvement is consistent with our downtown storm water plans to reduce high flow run-off of storm water to Lake Waconia. In addition, a sediment manhole is being proposed to reduce downstream impacts of total solids loading for Fountain Park storm basin. Attached Council will find three images; 1.) Project Area 2.) Project Improvement Image 3.) Pipe profile image of alley between Olive and Elm Streets Staff will present information related to the improvements and provide more information of the proposed plans at the June 5th, City Council Meeting. Funding for the improvements are to come from the Storm Water Fund. Staff have altered, or delayed previously planned 2023 improvement schedules to cover this higher priority improvement for the downtown storm water system. <u>Attachments:</u> 1. 23140res Olive_and_Elm_Street_Alley_Res.doc 2. Project Area.pdf 3. Project improvement image.pdf 4. Pipe Profile Image Alley Olive and Elm.pdf							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: Storm Water Fund							
Budget Information:				Planning Commission			
☒ Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			

_____Amendment Required	Other
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**CITY OF WACONIA
RESOLUTION NO. 2023-140**

**RESOLUTION AUTHORIZING OBTAINING QUOTES FOR OLIVE & ELM STREET
ALLEY IMPROVEMENTS**

WHEREAS, one of the City’s Priorities is to “manage, maintain, and improve our current and future physical assets”; and

WHEREAS, allowing staff to obtain quotes for alley improvements related to storm water project; and

WHEREAS, the project includes storm water capture and slow release improvements for current and new systems; and

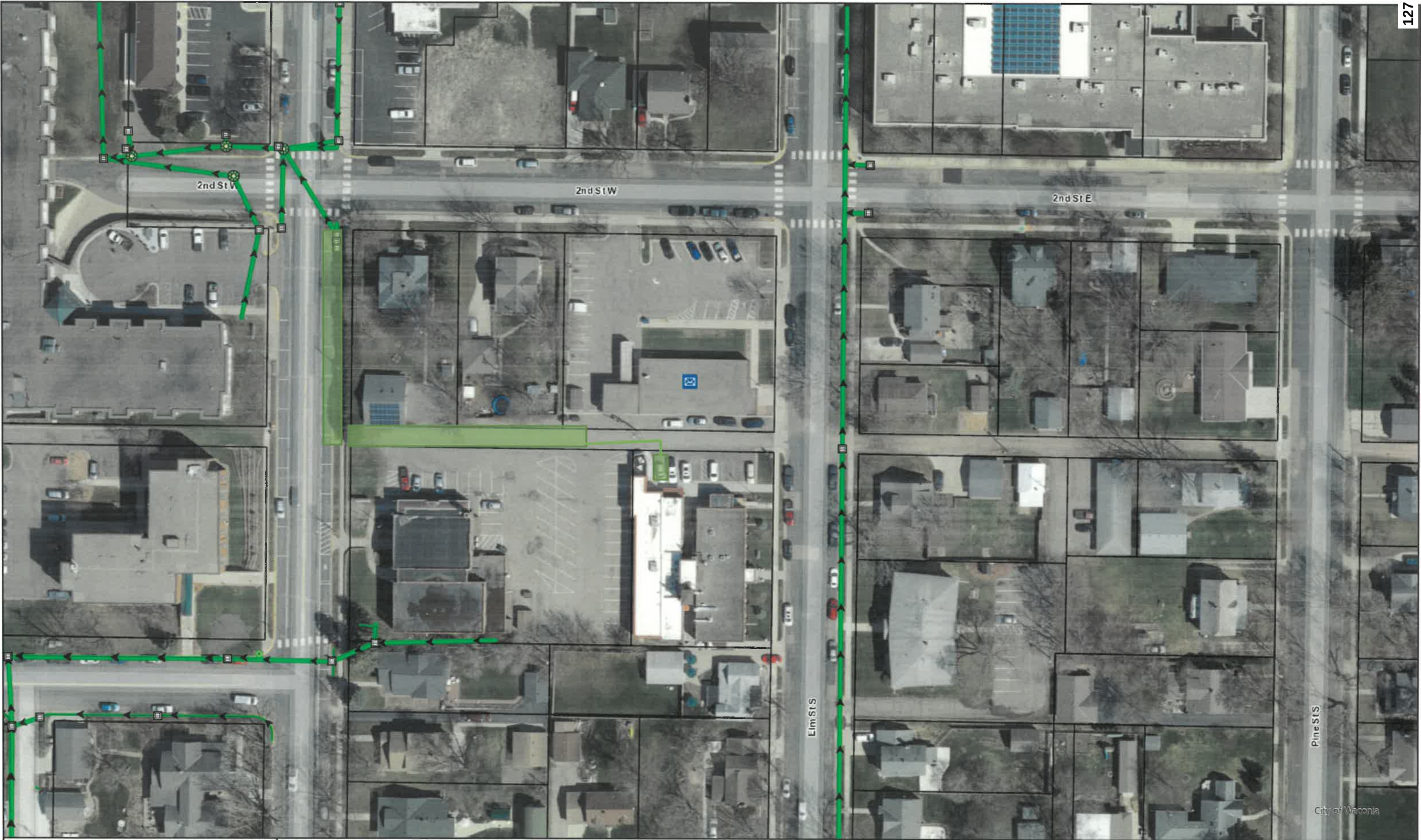
WHEREAS, the project quotes will be brought before City Council for award at a future meeting date.

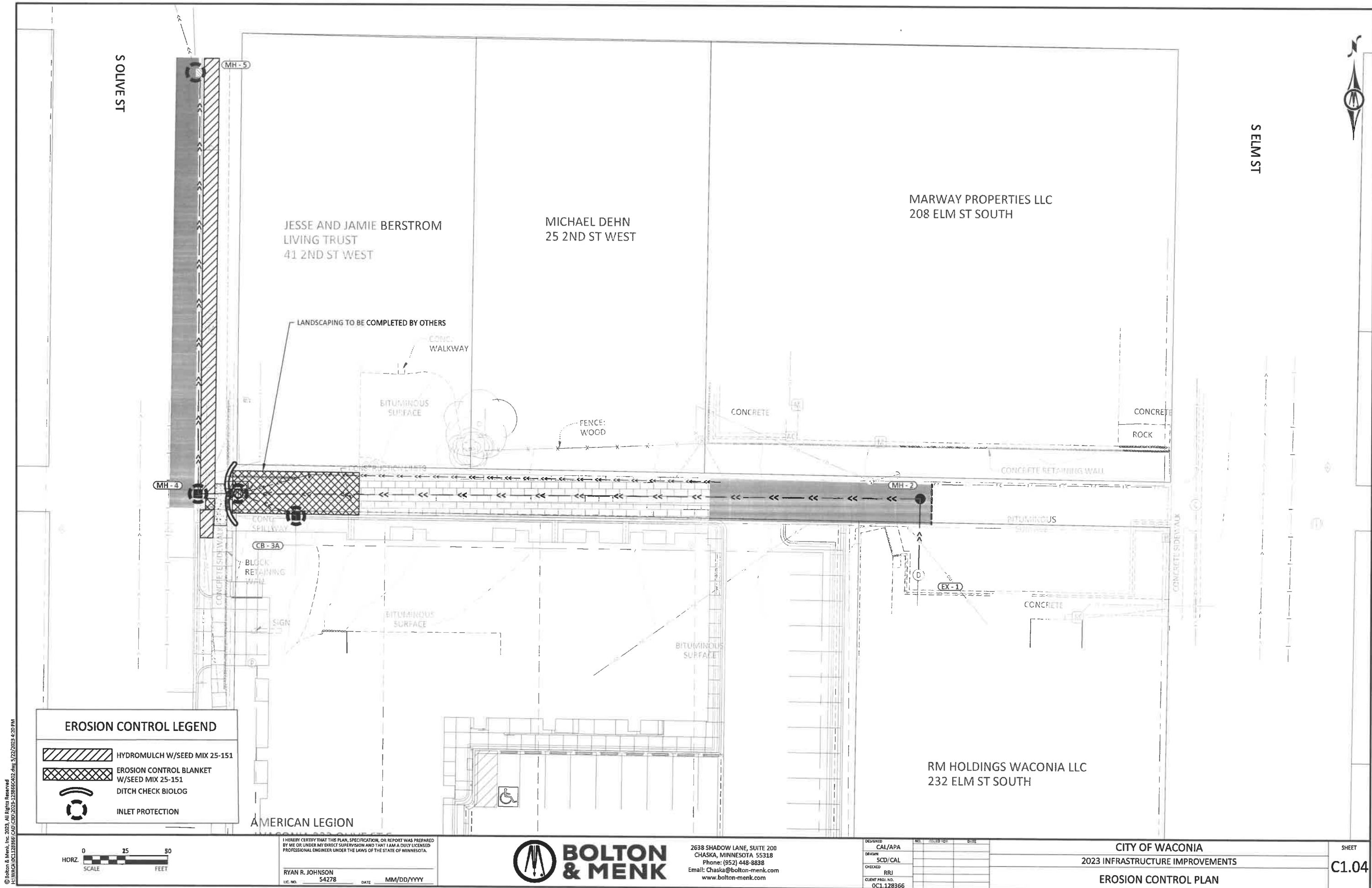
NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby authorizes obtaining quotes for Olive & Elm Street Alley Improvements.

Adopted by the City Council of the City of Waconia this 5th day of June, 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk





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

RYAN R. JOHNSON
LIC. NO. 54278 DATE MM/DD/YYYY

BOLTON & MENK

2638 SHADOW LANE, SUITE 200
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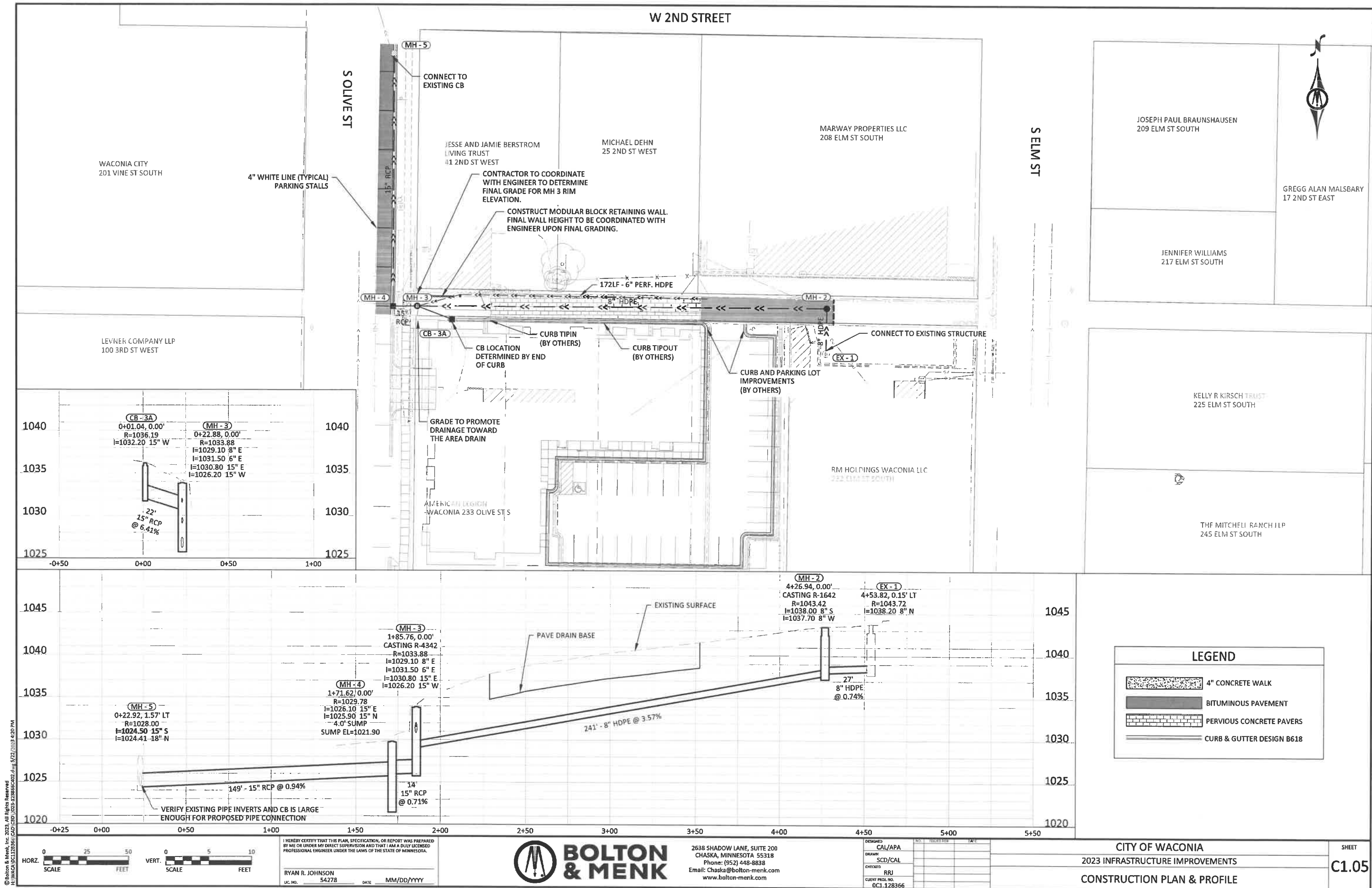
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CITY OF WACONIA

2023 INFRASTRUCTURE IMPROVEMENTS

EROSION CONTROL PLAN

SHEET
C1.04



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