

WACONIA CITY COUNCIL MEETING AGENDA



Monday, December 18, 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
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) [Approve December 18, 2023 Expenditures](#)
Approve Payment of December 18, 2023 Expenditures
- 2) [Approve Rink Management Services Corporation Safari Island Community Center Expenditures Incurred November 2023](#)
Motion to Approve Rink Management Corporation Expenditures for Safari Island Community Center Incurred in November 2023
- 3) [Approve Rink Management Services Corporation Waconia Ice Arena Expenditures Incurred November 2023](#)
Motion to Approve Rink Management Corporation Expenditures for Waconia Ice Arena Incurred in November 2023

- 4) [Approve Lodging Tax Fund Request - Waconia CVB](#)
Motion to Approve Request for Lodging Tax Reimbursement from the Waconia CVB for Expenditures Incurred July - December 2023.
- 5) [Approve Contractor Pay Request #15 - New Fire Station](#)
Motion to Approve Contractor Payment Request for the New Fire Station Project
- 6) [Approve Kraus Anderson Contractor Pay Request - New Fire Station](#)
Motion to Approve Contractor Payment Request for the New Fire Station Project
- 7) [Approve Revival Sauna Park Rental](#)
Motion to Execute Park Rental Agreement
- 8) [Approve Ordinance No. 770, Repealing Chapter 507 of Waconia City Code](#)
Approve Ordinance No. 770, Repealing Chapter 507: Amusement Machines, of Waconia City Code & Approving Summary Publication
- 9) [Adopt Resolution No. 2023-259 Authorizing Approval of Sale or Disposal of Surplus Equipment](#)
Adopt Resolution No. 2023-259, Authorize Approval of Sale or Disposal of Surplus Equipment
- 10) [Adopt Resolution No. 2023-260 Authorization to Solicit Pricing for Vehicle Replacements](#)
Adopt Resolution No. 2023-260 Authorizing Solicitation of Pricing for Vehicle Replacements
- 11) [Adopt Resolution No. 2023-261 Authorizing Approval of Solid Waste Reduction and Recycling Grant Agreement with Carver County](#)
Adopt Resolution No. 2023-261 Authorize Approval and Execution of Solid Waste Reduction and Recycling Grant Agreement with Carver County
- 12) [Adopt Resolution No. 2023-262 Awarding Sudheimer Industrial Park Pond Cleaning Project](#)
Adopt Resolution No. 2023-262 Awarding Sudheimer Industrial Park Pond Cleaning Project
- 13) [Adopt Resolution No. 2023-263 approving Planning Commission Appointments](#)
Adopt Resolution No. 2023-263 Approving Planning Commission Appointments
- 14) [Adopt Resolution No. 2023-264 Approving the Appointment of Fire Department Officers](#)
Adopt Resolution No. 2023-264 Approving the Appointment of Fire Department Officers
- 15) [Adopt Resolution No. 2023-265 Approving Liquor License Applications Renewals from February 1, 2024 through January 31, 2025](#)
Adopt Resolution No. 2023-265, Approving Liquor License Applications from February 1, 2024 through January 31, 2025
- 16) [Adopt Resolution No. 2023-266 Approving Agreement with Senior Community Services](#)
Adopt Resolution No. 2023-266 Approving Agreement with Senior Community Services
- 17) [Adopt Resolution No. 2023-267 Approving Contract for Police Services for 2024 Calendar Year.](#)
Adopt Resolution No. 2023-267 Approving the Contract for Police Services for 2024 Calendar Year with Carver County and Carver County Sheriff's Department.
- 18) [Adopt Resolution No. 2023-268 approving use of Ice Arena Municipal Lot for Hockey Fights Cancer Event](#)
Adopt Resolution No. 2023-268, Approving Use of Parking Lot for Blue Line Club Hockey Fights Cancer Event
- 19) [Adopt Resolution No. 2023-269 Approving Updated Employee Reference Manual](#)
Adopt Resolution No. 2023-269 Approving Updated Employee Reference Manual

6. COUNCIL BUSINESS

- 1) [Adopt Resolution No. 2023-275 Lions Field Lighting Upgrade](#)
Adopt Resolution #2023-275 Accepting the Quote from Musco Lighting for the Lions Field Lighting Upgrade
- 2) [Adopt Resolution No. 2023-270 Approving Final Tax Levy Collectible in 2024](#)
Adopt Resolution No. 2023-270 Approving the Final Tax Levy Collectable in 2024
- 3) [Adopt Resolution No. 2023-271 Adopting the 2024 Final Budget](#)
Adopt Resolution No. 2023-271 Adopting 2024 Budget for all General, Enterprise, Special Revenue, Capital Project, and Debt Service Funds
- 4) [Adopt Resolution No. 2023-272 Approving Conditional Use Permit Amendment - 9460 County Road 10 East](#)
Adopt Resolution No. 2023-272 approving the proposed amendment to the Conditional Use Permit

(CUP) for 9460 County Road 10 East (PID# 750191130).

- 5) [Adopt Resolution No. 2023-273 Approve Fire Contract for Waconia Township](#)
Adopt Resolution #2023-273 Approving Contract for Fire Service for Waconia Township
- 6) [Adopt Resolution No. 2023-274 Approving the Fire Contract for Laketown Township](#)
Adopt Resolution #2023-274, Approving Contract for Fire Service for Laketown Township

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** The City Council and staff will convene directly after the meeting at Lola's Lake House, 318 E Lake Street, for a social event. The public is welcome to attend.

11. ADJOURN REGULAR MEETINGOFFICE OF THE CITY ADMINISTRATOR

Shane Fineran

Work Session: None

The City Council will be gathering at Lola's Lakehouse following the conclusion of the meeting. The public is welcome to attend.

UPCOMING CALENDAR OF EVENTS/MEETINGS:

Christmas Holiday - December 25th & 26th - Offices Closed

New Years Holiday - January 1st - Offices Closed

City Council Meeting - January 2nd - 6:00 p.m.

Planning Commission - January 4th - 6:30 p.m.



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Approve December 18, 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>							
Approve Payment of December 18, 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 December 18, 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:		December 18, 2023					
Item Name:		Approve Rink Management Services Corporation Safari Island Community Center Expenditures Incurred November 2023					
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 Rink Management Corporation Expenditures for Safari Island Community Center Incurred in November 2023							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Rink Management Services Corporation has provided the attached report for expenditures paid in November 2023. Per the City's contract with Rink Management, these expenditures are paid by Rink Management for the City's operation of the Safari Island Community Center.							
<u>Attachments:</u>							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: Safari Island Fund (231)							
Budget Information: ☒ X Budgeted ☐ Non Budgeted ☐ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Approve Rink Management Services Corporation Waconia Ice Arena Expenditures Incurred November 2023					
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 Rink Management Corporation Expenditures for Waconia Ice Arena Incurred in November 2023							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Rink Management Services Corporation has provided the attached report for expenditures paid in November 2023. Per the City's contract with Rink Management, these expenditures are paid by Rink Management for the City's operation of the Waconia Ice Arena.							
<u>Attachments:</u>							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: Ice Arena Fund (678)							
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:		December 18, 2023					
Item Name:		Approve Lodging Tax Fund Request - Waconia CVB					
Originating Department:		Finance					
Presented by:		Amanda Ortloff					
Previous Council Action (if any):							
Item Type (X only one):		Consent	☒	Regular Session		Discussion Session	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Motion to Approve Request for Lodging Tax Reimbursement from the Waconia CVB for Expenditures Incurred July - December 2023.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The Waconia Chamber Convention & Visitors Bureau (CVB) has requested a lodging tax reimbursement for expenditures accrued from July - December 2023. Staff reviewed the request for reimbursement and supporting invoices as approved by the CVB. Lodging tax funds are currently available for payment of these expenditures. Staff recommends approval of the request in the amount \$5,763.04.							
<u>Attachments:</u>							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Lodging Tax Fund (701)							
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:		December 18, 2023					
Item Name:		Approve Contractor Pay Request #15 - 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 #15 for the new fire station project. The contractors requesting payment are as follows: Ebert Construction \$73,514.52 Wells Concrete Products Company \$7,689.78 Ben's Structural Fabrication, Inc. \$28,659.60 A.M.E. Construction Corp \$38,000.00 Kendell Doors & Hardware, Inc. \$3,066.93 RTL Construction, Inc. \$80,917.75 Gag Sheet Metal, Inc. \$26,879.30 Sentra-Sota Sheet Metal, Inc. \$145,663.50 Electrical Production Services, Inc. \$26,509.75 Parker Contracting, LLC \$36,197.47 The total amount of the contractor payments for this request is \$467,098.60. 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:		December 18, 2023			
Item Name:		Approve Kraus Anderson Contractor Pay Request - 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 requested payment in the amount of \$63,290.43 for construction management services through November 30, 2023.					
<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:		December 18, 2023					
Item Name:		Approve Revival Sauna Park Rental					
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>							
Motion to Execute Park Rental Agreement							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The Park Board reviewed a proposal from Paul Modeen, Revival Saunas for a park rental at Cedar Pointe Park to offer a mobile sauna experience at the park. The mobile sauna, similar to a portable wheeled fish house, would be staffed and maintained by Revival Saunas for private bookings for a sauna experience within the park at the shore of Lake Waconia. This is similar to the Neverboard Kayak, LLC rental that the city has in this park during the summer months where kayaks and lessons are made available to the public through a private party. The proposed rental rate for the season is \$300. The mobile sauna unit would be available for bookings Wednesday through Sunday from 9:00 a.m. to 9:00 p.m. and would be staff when when booked by Revival Sauna staff. The location would be just west of the existing parking lot near where the dock is located in the summer months. Revival Sauna would be responsible for snow removal from the maintained trail to the mobile sauna unit. Trash and portable toilets are maintained year round in this park by the city. The Park Board considered this request at their September meeting and recommended that the city enter into a rental agreement. The consensus was that this would be a new and unique experience offered in the public park. <u>Attachments:</u> 1. Lake Waconia Sauna Experience 2. Photos of Typical Sauna Unit 3. Rental Agreement for Portable Sauna Location with Revival Sauna Experience							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:				Park Board			
Budget Information: ☐ Budgeted ☐ Non Budgeted ☐ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

Lake Waconia Sauna Experience

Location: Cedar Point Park, located on Cedar Street at Lake Waconia, has 2 tennis courts, a basketball court, play equipment, picnic tables, and a fishing pier. The walking path along the shore of Lake Waconia continues west along Waconia Parkway to the Sugarbush and Willowbrooke subdivisions.

Dec 1 through May 1

Hours: Wednesday-Sunday 9am-9pm

Operated by Revival Saunas LLC



Revival Sauna is dedicated to helping you renew, recharge, and revive so that you can get back to the activities you love. Whether it is working out, working a job, sleeping through the night, or chasing your grandkids. We are here to help you be active and live your best life.

Sauna is a culture and a community. Whether a date night out, a fun family activity or a stress relief meditation, Sauna has been a symbol of community in the Nordic culture. With private and public sessions, we hope to bring the joys and benefits of Sauna to Carver County

Why Cedar Lake Park and Lake Waconia?

As a lifelong member of this community, we have spent many years fishing off the pier and on the lake. We believe we can assist in preserving this experience by sharing this special place with others. It is our intent to make a donation to the repair/preservation of the parks fishing pier and lakeshore from our net profits each season to ensure future families can enjoy Lake Waconia.

Private Sauna Session

75 mins | Available weekly

Our private, guided experiences include access to our sauna as well as our natural cold plunge. When you book this option, your party will be the only in the sauna. — **\$79/person , great for 1-4 people**



Social Sauna Session

75 mins | Available weekly, check availability by clicking [BOOK NOW](#)

Join us for a guided, social sauna session. In line with many thermal bathing traditions, you will share the sauna with other people. Relax, connect — together. When you join us for this session, multiple parties and up to 6 individuals will be present. This is a more social environment vs. the private session option.— **\$49/person or check out our session packs**

Location/Layout

See attachment







RENTAL AGREEMENT FOR PORTABLE SAUNA LOCATION

This rental agreement is dated December 11, 2023 and is between the City of Waconia, a Minnesota municipal corporation (the “**City**”) and Revival Sauna Experience LLC, a Minnesota limited liability company (“**Revival Saunas**”).

1. **Term of Agreement.** The term of this agreement shall commence December 1, 2023, and expire April 30, 2024 (the “**Term**”).
2. **Rental.**
 - 2.1. **Use.** The City grants Revival Saunas a non-exclusive right to place a portable sauna and detached portable warming house (collectively, the “**Sauna/Warming House**”) at the City’s Cedar Point Park (the “**Park**”) during the Term of this agreement. Revival Saunas shall place and maintain the Sauna/Warming House at the locations labeled “Sauna” and “Warming House Check-in” on the diagram attached as Exhibit A. Further, the portable sauna shall substantially conform in design and size to the sauna depicted on attached Exhibit A. Sauna/Warming House users may use the Park’s parking lot (the “**Parking Lot**”) on a non-exclusive basis with other Park users; no exclusive parking will be provided. Any signs on the Sauna/Warming House are subject to the City’s approval, which may be granted or denied at the City’s discretion.
 - 2.2. **Conditions.** Revival Saunas rights under this agreement are personal to Revival Saunas and Revival Saunas is not being granted, nor shall it claim, any right, title or interest in the Park. As such, Revival Saunas may not assign this agreement or its rights under this agreement to any other person or entity. Revival Saunas’ rights under this agreement are limited to those expressly described in this agreement and shall not be expanded by implication.
 - 2.3. **“As Is” Condition.** Revival Saunas acknowledges the City has made no warranties or representations as to the suitability of the Park for Revival Saunas intended Sauna/Warming House use. Revival Saunas acknowledges it is accepting the area designated for the Sauna/Warming House, the Parking Lot, and the balance of the Park on an “AS IS,” “WHERE IS,” and “WITH ALL FAULTS” basis. Nothing herein obliges the City to plow the Parking Lot or Park trails within any specific amount of time after a snowfall. Revival Saunas acknowledges the City typically plows these areas after other streets, alleys, and parking areas.
3. **Disclosure Form for Users.** Revival Saunas shall cause each sauna user to sign the Sauna Use Disclosure attached as Exhibit B (the “**Disclosure**”). Revival Saunas shall provide the City with an executed original of each Disclosure within ten (10) days after it is executed.

4. **Rent.** Revival Saunas shall pay the City the sum of \$300.00 as gross rent for the Term of this agreement ("**Rent**"). The full amount of the Rent shall be paid, in advance, upon execution of this agreement. Revival Saunas shall deliver the Rent payment to the City at the following address: City of Waconia, Attn: Accounts Receivable, 201 South Vine Street, Waconia, MN 55387.
5. **Operation, Maintenance and Repair.** Revival Saunas is responsible for all costs, taxes, permit fees and license fees associated with its operation of the Sauna/Warming House. Revival Saunas, at its expense, shall keep the Sauna/Warming House in good condition and repair and in a clean and orderly condition. Promptly after each snowfall, Revival Saunas shall shovel/plow a path between the trail or Parking Lot and the Sauna/Warming House area at its expense. At all times, Revival Saunas shall maintain such path in a manner that allows safe access and use of the Sauna/Warming House. Revival Saunas shall not make any modifications, alterations, or improvements to the Sauna/Warming House area, the Parking Lot, or any other portion of the Park without the City's prior approval, which approval may be granted or denied in the City's discretion. Revival Saunas shall not allow any waste or injury to the Sauna/Warming House area, the Parking Lot or the other portions of the Park.
6. **Publicity.** Revival Saunas gives the City permission to publicize the sauna (using Revival Sauna's name and logos) as the City may determine, in its sole discretion. Any publicity initiated by the City shall be without cost to Revival Saunas. Further, Revival Saunas may, on its initiative, purchase advertising from the City at the City's current rates.
7. **Surrender.** On or before the expiration or earlier termination of the Term of this agreement, Revival Saunas shall, at its expense i) remove the Sauna/Warming House and repair any damage caused by such removal; ii) remove all personal property and rubbish from the Sauna/Warming House area; and iii) otherwise return the Sauna/Warming House area to the same order and condition as they existed on the commencement of the Term of this agreement. Any personal property remaining in the Sauna/Warming House area after the expiration or earlier termination of the Term of this agreement shall be deemed abandoned and may be disposed of by the City, in its discretion. Revival Saunas hereby releases the City from any liability associated with the disposal of personal property deemed abandoned. Further, Revival Saunas agrees to reimburse the City for all expenses, including attorney's fees, incurred by the City in connection with i) removing personal property from the Sauna/Warming House area or other areas of the Park; ii) storing personal property; iii) returning personal property to its owner; or iv) disposing of personal property.
8. **Compliance.** Revival Saunas shall operate its business and the Sauna/Warming House in full compliance with all applicable municipal, state and federal laws, statutes, ordinances, codes and regulations.
9. **Indemnification.** Revival Saunas agrees to indemnify, defend, and hold the City, its elected officials, officers, employees, and volunteers harmless from and against any claims, actions, liabilities, damages, costs and expenses, including attorneys' fees, arising out of injury, death, property damage or property loss occasioned wholly or in part by i) use of the Sauna/Warming

House, the Parking Lot, or other portions of the Park by Revival Saunas, its offices, employees, customers, guests, or invitees; ii) Revival Saunas' operations; or iii) Revival Sauna's breach of this agreement. This indemnification shall survive the expiration or earlier termination of the Term and this agreement.

10. **Insurance.** Revival Saunas shall provide proof of liability and workers' compensation insurance coverage, acceptable to the City, before using the Sauna/Warming House area and shall maintain such insurance coverage throughout the term of this agreement. The liability insurance policy shall be endorsed to name the City as an additional insured in regarding this agreement and such insurance shall be primary coverage regarding all matters relating to Revival Saunas' obligations of indemnification hereunder without right of contribution from similar insurance maintained by the City. Revival Saunas shall promptly provide the City with a certificate of insurance evidencing the required insurance, which certificate shall provide that the issuer shall endeavor to give the City not less than thirty (30) days prior written notice before the termination of any insurance coverage required hereunder.
11. **Waiver.** Notwithstanding anything to the contrary in this agreement, the City and its elected officials, officers, employees, and volunteers shall not be liable to Revival Saunas for, and Revival Saunas hereby releases such parties from, all damage, compensation and claims arising in whole or in part from i) loss or damage to trade fixtures, equipment or personal property associated with the Sauna/Warming House or Revival Saunas' operations; ii) lost business or other consequential damage arising out of interruption in the use of the Sauna/Warming House or the Parking Lot; and iv) any criminal act by any person, including but not limited to, theft of any personal property from the Sauna/Warming House or the Parking Lot. Revival Saunas agrees to obtain insurance to protect Revival Saunas from all such losses.
12. **Early Termination.** The Lease Term and this agreement will terminate early under any of the following circumstances:
 - 12.1. The City may, at its sole option, terminate the Term and this agreement for cause upon written notice to Revival Saunas if Revival Saunas fails to pay any Rent payment when due.
 - 12.2. The City may, at its sole option, terminate the Lease Term and this agreement for cause upon written notice to Revival Saunas if Revival Saunas breaches any other obligation of Revival Saunas under this agreement and such breach has not been fully cured by Revival Saunas within ten (10) days of receiving written notice of the deficiency from the City.
13. **Miscellaneous.** The recitals at the beginning of the agreement and the attached exhibits are incorporated by reference as terms of the agreement. This agreement contains the entire understanding of the parties with respect to the subject matter of this agreement. No modification or amendment to this agreement will be effective unless it is in writing and executed by both parties to this agreement. Nothing contained in this agreement creates a partnership or joint venture between the City and Revival Saunas. This agreement binds and

inures to the benefit of the parties hereto and their respective successors and assigns. This agreement is governed by Minnesota law, exclusive of choice of law rules.

14. **Execution.** This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and together which shall constitute one and the same document. Signatures transmitted by fax, email or other electronic means (e.g., pdf) shall be deemed binding, delivered and enforceable.

Revival Sauna Company LLC

City of Waconia



F3ADC0BAC047433...

Paul Modeen, Chief Manager

Shane Fineran, City Administrator

Date: 12/11/2023

Date:

Address for notices:
STE 300 7900 INTERNATIONAL DR
BLOOMINGTON MN 55425
2562 USA

Address for notices:
201 South Vine Street
Waconia, MN 55387

EXHIBIT A

Diagram of Sauna/Warming House



EXHIBIT B

Sauna Use Disclosure

I acknowledge Revival Sauna Experience, LLC ("**Revival Saunas**") is required to give me the following information and obtain my signature on this form before I can use the sauna at Cedar Point Park.

I acknowledge I have received the following information:

- The sauna at Cedar Point Park is in a municipal park owned by the City of Waconia, Minnesota (the "**City**"). All ordinances in the Waconia City Code relating to municipal parks and the use of municipal parks apply. Further, all Minnesota Statutes regarding parks and recreational facilities apply.
- The only relationship between the City and Revival Saunas is that of lessor and lessee. The City is not in a partnership or joint venture with Revival Saunas of any kind. As such, the City has no responsibility for the actions or omissions of Revival Saunas or its employees.
- The sauna is located next to Lake Waconia. Depending on weather conditions, the ice on the lake may be too thin to support a person or may otherwise become unsafe.

Given the above, I agree the City and its elected officials, officers, and employees shall not be liable to me, and I hereby release such parties from, all damage, compensation and claims arising, in whole or in part, from my use of i) the sauna in Cedar Point Park; or ii) Lake Waconia.

Signature: _____

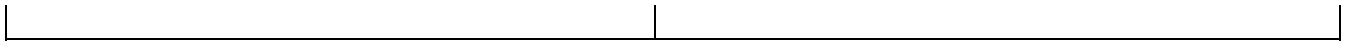
Print Name: _____

Date: _____



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Approve Ordinance No. 770, Repealing Chapter 507 of Waconia City Code					
Originating Department:		Administration					
Presented by:		Jackie Schulze					
Previous Council Action (if any):							
Item Type (X only one):	Consent	☒	X	Regular Session	☐	Discussion Session	☐
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Approve Ordinance No. 770, Repealing Chapter 507: Amusement Machines, of Waconia City Code & Approving Summary Publication							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City currently has the authority, under Chapter 507 of the City Code, to require licensure of amusement machines. <i>Amusement machines</i> mean “any billiard, pool, other game tables or devices intended for use by the public as a source of amusement, recreation, musical selection, which require for its operation the payment of a fee by the user which is inserted directly into the device or the machine.” Each year, the City takes the time to send renewal letters and issue licenses to the holders of these machines. Each location in the City that has amusement devices pays \$15 per location and \$15 per device. Amusement machine licensure brings in approximately \$500 in revenue each year. The City is not required by state statute to license amusement devices. The history as to why Waconia initially licensed these machines is not clear. Amusement licensing requires staff time and imposes a burden on the retailers in the City that have amusement devices. For these reasons, staff believes licensing amusement devices does not serve a public purpose and recommends repealing this chapter of City Code in it’s entirety. The current version of Chapter 507, as it reads today, is included in your packet for reference as to what will be repealed.							
Attachments:							
1. Ordinance No. 770 Amusement Machines 2. Chapter 507 Amusement Machines (Current Version for Reference)							
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
ORDINANCE NO. 770

AN ORDINANCE REPEALING
CHAPTER 507: AMUSEMENT MACHINES FROM WACONIA CITY CODE

The City Council of the City of Waconia, Minnesota, ordains:

FINDINGS AND PURPOSE

The City has the authority, under Chapter 507 of the City Code, to require licensure of amusement machines. *Amusement machines* mean “any billiard, pool, other game tables or devices intended for use by the public as a source of amusement, recreation, musical selection, which require for its operation the payment of a fee by the user which is inserted directly into the device or the machine.” Each year, the City takes the time to send renewal letters, receive and code payment, and issue licenses to the holders of these machines. Each location in the City that has amusement devices pays \$15 per location and \$15 per device. Amusement machine licensure brings in about \$500 in revenue each year.

The City is not required by state statute to license amusement devices. The history as to why Waconia initially licensed these machines is not clear. Amusement licensing requires staff time and imposes a burden on the retailers in the City that have amusement devices. For these reasons, staff believes licensing amusement devices does not serve a public purpose and recommends repealing this chapter of City Code in its entirety.

Repeal of Chapter 507

Chapter 507, *Amusement Machines*, of the Waconia City Code is repealed in its entirety.

SUMMARY

The following official summary of Ordinance No. XXX has been approved by a four-fifths vote of the City Council as clearly informing the public of the intent and effect of the Ordinance:

The ordinance is titled *AN ORDINANCE REPEALING CHAPTER 507: AMUSEMENT MACHINES FROM WACONIA CITY CODE*. The ordinance also repeals Chapter 507 of the Waconia City Code, which required licensure of amusement machines.

The full text of the ordinance is available for public inspection during regular office hours at the office of the City Clerk, 201 South Vine Street, Waconia, and at the Waconia Public Services Building, 310 10th Street East, Waconia. Further, any person may request the City to send the full text of the ordinance via standard or electronic mail by calling City Hall at (952) 442-2184.

EFFECTIVE DATE

This ordinance is effective upon publication.

Passed and adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk

CHAPTER 507. AMUSEMENT MACHINES

Sec. 507.01. Definitions.

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

- A. The term "amusement machine" shall mean any machine including billiard, pool, and other game tables or device intended for use by the public as a source of amusement, recreation, musical selection which require for its operation the payment of a fee by the user which is inserted directly into said device or machine. However, cigarette, candy, gum, soft drink, and similar vending machines are not to be considered as amusement machines within the meaning of this section.
- B. The term "operator" means the person or persons who keeps or allows such amusement machines to be kept on premises owned by him or under his control.
- C. The term "owner" shall mean any person or persons who owns the places amusement machines by whatever arrangement on the operator's premises.

Sec. 507.02. License required.

It shall be unlawful for the owner or operator of any amusement machine as herein defined to allow any such amusement machine to be maintained or operated within the corporate limits of the City of Waconia, unless such owner or operator has first obtained a license therefore as hereinafter provided.

Sec. 507.03. Application.

Any person or persons desiring to maintain or operate an amusement machine within the corporate limits of the City of Waconia shall make application for a license therefore as herein provided to the city clerk and shall pay therefore the license fee as established in accordance with the schedule set forth in section 1100 of this Code or as determined from time to time by the city council.

After referring said license application to the city council for approval, the city clerk shall issue said license, the duration of which shall be governed by the provisions set forth in section 500.03 of this Code. In the event such application shall be refused by the council, the fee paid by the applicant shall be refunded to him.

Sec. 507.04. Display of license tag.

Each amusement machine licensed in accordance with this chapter shall have affixed thereto a license tag furnished by the city evidencing compliance with this chapter.



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-259 Authorizing Approval of Sale or Disposal of Surplus Equipment					
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 No. 2023-259, Authorize Approval of Sale or Disposal of Surplus Equipment							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
City staff have reviewed inventory and items in storage at the water treatment plant. Staff is requesting this equipment be deemed surplus equipment and be sold or properly disposed of. • 1 - Quincy Air Compressor This equipment was replaced this year with capital project #2023-703. The City utilizes Jeff Martin Auctioneers, Inc. for the sale of these types of items along with general postings at City Hall. The equipment is listed at the lowest price the City will accept and people can bid on the item. The equipment is then sold to the highest bidder. Funds from the sale will be recognized in the correlating departments operating fund as reimbursement revenue.							
Attachments:							
1. Resolution No. 2023-259 Authorizing Sale or Disposal of Surplus Equipment							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Water Utility Fund (601)							
Budget Information:				Planning Commission			
☐ Budgeted				Parks and Recreation Board			
☒ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-259**

RESOLUTION APPROVING SURPLUS EQUIPMENT AND SALE

WHEREAS, City Hall staff cleared from storage equipment and materials no longer in use for operations; and

WHEREAS, the list of surplus equipment includes the following:

- 1 – Quincy Air Compressor

WHEREAS, funds received for the equipment with saleable value will be recognized in the Water Utility Fund as reimbursement revenue; and

WHEREAS, equipment that cannot be sold will be properly disposed of by City staff.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Waconia hereby declares the equipment listed as surplus equipment and authorizes its sale or disposal as determined by City staff.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-260 Authorization to Solicit Pricing for Vehicle Replacements					
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 No. 2023-260 Authorizing Solicitation of Pricing for Vehicle Replacements							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The 2024 Capital Investment Plan identified the replacement of two fleet pick-ups, a 2011 Dodge 1500, 2014 Ford F150 and a fire fleet 2014 Chevrolet Tahoe . Staff is seeking authorization to solicit pricing for equivalent replacement vehicles. We have heard from vendors that ordering windows for model 2024 vehicles may close in Q1 with the next ordering window not available until after September. The plan will be to utilize contracts available to the City through the State Cooperative Purchasing Program (CPV) targeting Ford and GMC based vehicles.. The CPV offers pre-negotiated discounted pricing for a variety of products and services and at generally lower prices than found in the open market or retail applications. Included in the pricing information to be obtained will be unfitting for items such as back rack, warning lighting, emergency lighting, radios, and tool boxes. These items are also able to be obtained through the CPV. The total budgeted amount for the pick-ups totals \$88,000, and for the SUV totals \$88,000 which includes proceeds received from the sale or trade of current assets. Once pricing is obtained it will be brought back to the City Council for consideration of acquisition.							
<u>Attachments:</u>							
1. Resolution No. 2023-260 Vehicle Replacement Pricing							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Capital Investment Plan>Capital Equipment Cash							
Budget Information: ☒ X Budgeted ☐ Non Budgeted ☐ Amendment Required				Planning Commission			
				Parks and Recreation Board			
				Safari Island Advisory Board			
				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-260**

**RESOLUTION AUTHORIZING SOLICITATION OF PRICING FOR CAPITAL PROJECTS
336 & 264 & 539 OF THE CAPITAL EQUIPMENT IMPROVEMENTS FOR 2024**

WHEREAS, three vehicle replacements have been identified in 2024 for vehicles in the Public Services and Fire fleet; and

WHEREAS, vehicle chassis pricing is open currently with a shortened window of opportunity; and

WHEREAS, the vehicles to be evaluated for replacement are a 2011 Dodge 1500, 2014 Ford F150, and a 2014 Chevrolet Tahoe.

WHEREAS, pricing information will be obtained through the State of Minnesota Cooperative Purchasing contract and associated vendors; and

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby authorizes approval of chassis pricing for Capital Projects 336, 264, & 539 of the Capital Equipment Improvements for 2024.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-261 Authorizing Approval of Solid Waste Reduction and Recycling Grant Agreement with Carver County					
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 No. 2023-261 Authorize Approval and Execution of Solid Waste Reduction and Recycling Grant Agreement with Carver County							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
City staff was made aware of a grant application completed last fall for the 2023 Solid Waste Reduction and Recycling Grant with Carver County Environmental Services. The grant was for reimbursement of composting services and fees paid from January 1, 2023 to December 31, 2023. The City has applied for this grant for several years and continually receives support from Carver County to provide composting and recycling services within the city limits. A grant agreement was provided by Carver County and is not yet executed. Staff is requesting approval to complete the attached grant agreement so the reimbursement request can be sent to Carver County for processing. The City may receive up to a total of \$15,000 based on the specifications listed in the grant. As part of the grant application process, the City estimated its costs for 2023 to be about \$24,532. Once the grant agreement is executed, staff will compile actual costs for providing composting services in the City and record the grant revenue received in the streets department grant revenue line item. All the final expenditure data must be provided to Carver County by January 31, 2024. City staff will report to the City Council the final amount of grant funds received for this program at a future meeting. City staff plan to again apply for these grant funds for the 2024 compost season.							
Attachments:							
1. Resolution No. 2023-261 Grant Agreement Carver County Compost 2. City Solid Waste Reduction and Recycling Grant Agreement							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
General Fund - Streets (101)							
Budget Information:				Planning Commission			
☒ X Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-261**

**RESOLUTION AUTHORIZING APPROVAL & EXECUTION OF SOLID WASTE
REDUCTION & RECYCLING GRANT AGREEMENT WITH CARVER COUNTY**

WHEREAS, City staff applied for a grant with Carver County for solid waste reduction and recycling in October 2022; and

WHEREAS, the City of Waconia will be awarded grant funds up to \$15,000 for the cost to provide compost and recycling services within the City limits between January 1, 2023 and December 31, 2023; and

WHEREAS, the attached grant agreement must be executed and returned to Carver County along with the actual costs incurred by the City; and

WHEREAS, the final financial analysis of the City's expenditures is due to Carver County to be considered for reimbursement by January 31, 2024.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Waconia hereby authorizes approval and execution of the solid waste reduction and recycling grant agreement with Carver County.

Adopted by the City Council of Waconia, Minnesota this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

**COUNTY OF CARVER
CITY SOLID WASTE REDUCTION & RECYCLING
GRANT AGREEMENT**

This Agreement is entered into by and between the County of Carver, 600 East 4th Street, Chaska, Minnesota 55318, through its Public Services Division, 600 East 4th Street, Chaska, MN 55318 (hereafter “County”) and the City of Waconia, 201 Vine St. South, Waconia MN 55387-1403 (hereafter “Grantee”).

Recitals

1. Under Minnesota Statutes §473 and §115A, the County is empowered to enter into this grant.
2. The County is in need of the City of Waconia’s assistance to carry out the provisions of the Carver County Solid Waste Master plan 2018 to 2036.
3. The Grantee represents that it is duly qualified and agrees to perform all services described in this grant agreement to the satisfaction of the County.

Grant Agreement

1. Term of Grant Agreement

- a. Effective date:* January 1, 2023. Once this grant agreement is fully executed, the Grantee may claim reimbursement for expenditures incurred back to effective date. Reimbursements will only be made for those expenditures made according to the terms of this grant.
- b. Expiration date:* The expiration date of the grant is certified through December 31, 2023, or until all obligations have been satisfactorily fulfilled, whichever occurs first. All expenditures must be made prior to December 31, 2023, and reimbursement requests must also be received by the County no later than January 31, 2024. Grant funds may not be carried over to the next calendar year and must be used for activities specified in the attached spending plan, (Exhibit A).
- c. Survival of Terms.* The following clauses survive the expiration or cancellation of this grant agreement:
9. Liability; 10. Audits, 11. Government Data Practices and Intellectual property; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction, and Venue; and 19. Data Disclosure.

2. Grantee’s Duties

The Grantee, who is not a county employee, will provide solid waste program services and education consistent with the Carver County Solid Waste Master Plan. The Grantee will perform the following duties as part of this agreement:

- Offer compost drop-off site and City Park recycling

The Grantee must secure a minimum of three bids for all grant related activities greater than \$5,000. The Grantee will submit to the County a spending plan (Exhibit “A” to this grant) along with this form to carry out the Grantee’s duties. These activities must relate to solid waste landfill abatement programs and activities consistent with the Carver County Solid Waste Master

Plan and applicable State Statutes and County ordinances. The spending plan must be approved by the County. The Grantee agrees to work with the County to promote solid waste programs. Any deviation from the spending plan (Exhibit “A”) must be approved in writing by Carver County Public Services.

3. Reporting Requirements

The Grantee must satisfactorily submit all activity and financial reports by the date(s) requested by the County, unless the County grants an extension in writing.

4. Time

The Grantee must comply with all the time requirements described in this grant agreement. In the performance of this grant agreement, time is of the essence.

5. Consideration and Payment

a. **Consideration.** The County will pay for all services performed by the Grantee under this grant agreement as follows:

- i. **Compensation.** The Grantee will be paid for solid waste landfill abatement activities as specified in Exhibit A, performed by the Grantee during the term of the Grant up to fifteen thousand dollars (\$15,000.00).
- ii. **Total Obligation.** The total obligation of the County for all compensation and reimbursements to the Grantee under this grant agreement will not exceed fifteen thousand dollars (\$15,000.00).

b. **Payment**

- i. **Invoices.** The County will promptly pay the Grantee after the Grantee’s presentation of invoices for services performed and acceptance of such services by the County’s authorized agent pursuant to Clause 7. Invoices shall be submitted in a form prescribed by the County within the dates previously noted in “Term of Grant Agreement” in this contract.
- ii. **Federal Funds.** (Where applicable, if blank, this section does not apply) Payments under this grant agreement will be made from federal funds obtained by the County through Title _____ CFDA number _____ of the _____ Act of _____. The grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Grantee’s failure to comply with federal requirements.

6. Conditions of Payment

All services provided by the Grantee under this grant agreement must be performed to the County’s satisfaction, as determined at the sole discretion of the County’s Authorized Representative and in accordance with all applicable federal, County, and local laws, ordinances, rules, and regulations. The Grantee will not receive payment for work found by the County to be unsatisfactory or performed in violation of federal, County, or local law.

7. Authorized Representative

The County’s Authorized Representative is Marcus Zbinden, 600 East 4th Street, Chaska, MN 55318, (952) 361-1806, or his/her successor, and has the responsibility to monitor the Grantee’s

performance and the authority to accept the services provided under this grant agreement. If the services are satisfactory, the County's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is the Shane Fineran, City Administrator, City of Waconia, 201 South Vine Street, Waconia, MN 55387. If the Grantee's Authorized Representative changes at any time during this grant agreement, the Grantee must immediately notify the County.

8. Assignment, Amendments, Waiver, and Grant Agreement Complete

- a. Assignment.** The Grantee may neither assign nor transfer any rights or obligations under this grant agreement without the prior consent of the County and a fully executed Assignment Agreement, executed and approved by the same parties who executed and approved this grant agreement, or their successors in office.
- b. Amendments.** Any amendment to this grant agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant agreement, or their successors in office.
- c. Waiver.** If the County fails to enforce any provision of this grant agreement, that failure does not waive the provision or its right enforce it.
- d. Grant Agreement Complete.** This grant agreement, including Exhibit "A", contains all negotiations and agreements between the County and the Grantee. No other understanding regarding this grant agreement, whether written or oral, may be used to bind either party.

9. Liability

The Grantee must indemnify, save, and hold the County, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by the County, arising from the performance of this grant agreement by the Grantee or the Grantee's agents or employees.

10. Audits

Under Minn. Stat. §16C.05, subd. 5, the Grantee's books, records, documents, and accounting procedures and practices relevant to this grant agreement are subject to examination by the County and/or the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this grant agreement.

11. Government Data Practices and Intellectual Property

- a. Government Data Practices.** The Grantee and County must comply with the Minnesota Government Data Practices Act, Minnesota Statute §. 13, as it applies to all data provided by the County under this grant agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Grantee under this grant agreement. The civil remedies of Minn. Stat. §13.08 apply to the release of the data referred to in this clause by either the Grantee or the County.

If the Grantee receives a request to release the data referred to in this Clause, the Grantee must immediately notify the County. The County will give the Grantee instructions concerning the release of the data to the requesting party before the data is released.

12. Worker's Compensation

The Grantee certified that it is in compliance with Minn. Stat. §176.181, subd. 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered County employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the County's obligation or responsibility.

13. Publicity and Endorsement

- a. **Publicity.** Any publicity regarding the subject matter of this grant agreement must identify the County as the sponsoring agency and must not be released without prior written approval from the County's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors with respect to the program, publications, or services provided resulting from this grant agreement.
- b. **Endorsement.** The Grantee must not claim that the County endorses its products or services.

14. Governing Law

Minnesota law, without regard to its choice-of-law provisions, governs this grant agreement. Venue for all legal proceedings out of this grant agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Carver County, Minnesota.

During the performance of this Agreement, the Grantee agrees to the following: No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, sexual orientation, public assistance status, criminal record, creed or national origin be excluded from full employment rights in, participation in, be denied the benefits of or be otherwise subjected to discrimination under any and all applicable Federal and State laws against discrimination.

15. **Accessibility:** Structural and nonstructural facilities and programs must meet all state and federal accessibility laws, regulations, and guidelines.

Copies of accessibility guidelines can be downloaded off the Americans with Disabilities Act Accessibility Guidelines website at <http://www.access-board.gov>.

16. Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transactions

- a. The prospective lower tier participant certifies, by submission of this agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment,

declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

17. Monitoring

If the grant is over \$50,000, the County's authorized representatives will conduct at least one monitoring visit per grant period. This visit may be in person or by telephone.

18. Termination

Termination by the County. The County may cancel this agreement at any time, with or without cause, upon 30 days' written notice to the grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

19. Data Disclosure

Under Minn. Stat. §270C.65, subd. 3 and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the County, to federal and state tax agencies, and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any.

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

COUNTY OF CARVER
STATE OF MINNESOTA

Grantee/Date

County Administrator/Date



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	December 18, 2023						
Item Name:	Adopt Resolution No. 2023-262 Awarding Sudheimer Industrial Park Pond Cleaning Project						
Originating Department:	Administration						
Presented by:	Shane Fineran						
Previous Council Action (if any):	Approved Resolution #2022-234, Authorizing Approval of Preparing Plans and Specifications for Sudheimer Industrial Park Pond Cleaning and BMP Improvements, CIP Project 504 Approved Resolution #2023-243, Authorizing Bid for Sudheimer Industrial Park Storm Pond Cleaning						
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 No. 2023-262 Awarding Sudheimer Industrial Park Pond Cleaning Project							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Quotes were received for Capital Project #504 for the cleaning and restoration of the Sudheimer Industrial Park storm water pond and wetland area adjacent to CSAH 10. The project had identified an estimated cost of \$304,000 and the engineers estimate for the planned work was \$125,000. Three quotes were received with the low quote submitted by SM Hentges & Sons, Inc. at a price of \$83,330 for construction costs. Total project costs are estimated at \$104,000 to include project soft costs. Un-utilized budgeted funds will be reallocated within the Capital Investment Plan for future storm water capital projects.							
Attachments:							
1. Resolution No. 2023-262 Awarding Project for Sudheimer Industrial Park Storm Pond Cleaning 2. Sudheimer Industrial Park Pond Image 3. Sudheimer Industrial Park Storm Pond Cleaning Quotes							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
PIR>Storm Water Cash							
Budget Information:				Planning Commission			
☒ Budgeted				Parks and Recreation Board			
☐ Non Budgeted				Safari Island Advisory Board			
☐ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-262**

**RESOLUTION AWARDING PROJECT FOR SUDHEIMER INDUSTRIAL PARK STORM
POND CLEANING**

WHEREAS, the City of Waconia has determined that the dredging, cleaning, and restoration of the Sudheimer Industrial Park Storm Pond is necessary infrastructure maintenance and was identified in the Capital Investment Plan as project #504 at an estimated cost of \$304,000; and

WHEREAS, the City Council approved the solicitation of quotes for the project via Resolution #2023-234; and

WHEREAS, the City Engineer has received three quotes from qualified contractors for the work; and

WHEREAS, the low construction quote was submitted by SM Hentges & Sons, Inc. for a total of \$83,330.00

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby awards the project to SM Hentges & Sons, Inc.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

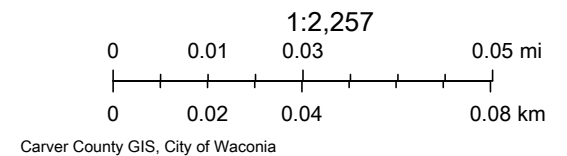
Attest: _____
Jackie Schulze, City Clerk

ArcGIS Web Map



8/29/2022, 6:42:59 AM

- | | | | |
|-----------------|----------------------|------------------------|-----------------------|
| Waconia Parcels | Storm Drantile | Pond Skimmer Structure | Storm Inlet |
| Storm Sump | Storm Main | Storm Clean Out | Storm Discharge Point |
| Storm Culvert | Storm Flow Direction | Storm Manhole | |





Real People. Real Solutions.

2638 Shadow Lane
Suite 200
Chaska, MN 55318-1172

Ph: (952) 448-8838
Fax: (952) 448-8805
Bolton-Menk.com

December 12, 2023

City of Waconia
Attn: Shane Fineran
201 South Vine Street
Waconia, MN 55387

RE: Industrial Park Wetland Improvement Project Award

Honorable Mayor and City Council Members:

Quotes were received on December 11, 2023, for the above referenced project. Being the estimated construction cost of the project is below \$175,000 the quote process is legally acceptable. The proposed work includes all materials and labor necessary to dredge sediment and restore the original elevation and drainage of the wetland located north of CSAH 10 and west of State Hwy 284. Five quotes were solicited, and three quotes were received. Below is a tabulation of the received quotes:

	Bidder / Contractor	Bid Price
1	SM Hentges & Sons, Inc.	\$83,330.00
2	Widmer Construction LLC	\$101,509.50
3	Schneider Excavating & Grading, Inc	\$150,176.00

The low quote submitted was 6% below the engineer's estimate amount of \$88,052.00 and 80% below the high bid amount. SM Hentges & Son has successfully completed projects of this type in the past and thereby have shown themselves to be a responsible contractor. Based on the items above, we recommend the City award the project in the amount of \$83,330.00 to SM Hentges & Sons, Inc. from Jordan, MN.

I am available to answer any questions that you or the City Council may have.

Sincerely,

Bolton & Menk, Inc.

Jake S. Saulsbury, P.E.



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023																													
Item Name:		Adopt Resolution No. 2023-263 approving Planning Commission Appointments																													
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 No. 2023-263 Approving Planning Commission Appointments																															
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>																															
The City's Planning Commission currently has three vacancies. On December 4, 2023, the Personnel Committee, as well as Lane Braaten, staff liaison to the Planning Commission, interviewed interested applicants to the commission. Following the interviews, it is recommended that the following individuals be appointed to the Planning Commission:																															
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Commissioner</th> <th style="text-align: left;">Position</th> <th style="text-align: left;">Term</th> <th style="text-align: left;">Expires</th> </tr> </thead> <tbody> <tr> <td>Bruce Paulson</td> <td>Regular</td> <td>First three-year term (current alternate)</td> <td>December 31, 2026</td> </tr> <tr> <td>Chad Genz</td> <td>Regular</td> <td>First three-year term (currently on partial term)</td> <td>December 31, 2026</td> </tr> <tr> <td>Daryl Peterson</td> <td>Regular</td> <td>First three-year term (new commissioner)</td> <td>December 31, 2026</td> </tr> <tr> <td>Kevin Kamerud</td> <td>Regular</td> <td>Partial Term</td> <td>December 31, 2024</td> </tr> <tr> <td>Jake Weckman</td> <td>Alternate</td> <td>Partial Alternate Term</td> <td>December 31, 2025</td> </tr> </tbody> </table>								Commissioner	Position	Term	Expires	Bruce Paulson	Regular	First three-year term (current alternate)	December 31, 2026	Chad Genz	Regular	First three-year term (currently on partial term)	December 31, 2026	Daryl Peterson	Regular	First three-year term (new commissioner)	December 31, 2026	Kevin Kamerud	Regular	Partial Term	December 31, 2024	Jake Weckman	Alternate	Partial Alternate Term	December 31, 2025
Commissioner	Position	Term	Expires																												
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Attachments:																															
1. Resolution No. 2023-263 Approving Planning Commission Appointments																															
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 - 263**

**RESOLUTION APPROVING
PLANNING COMMISSION APPOINTMENTS**

WHEREAS, Dan Lescher's terms with the Planning Commission is ending in 2023; and

WHEREAS, current planning commissioners Tina Zellman and Jim Sarcletti have resigned their positions effective January 1, 2024; and

WHEREAS, it has been past practice to reach out to current members who are eligible for an additional term and see if they would like to continue; and

WHEREAS, interviews were conducted on December 4, 2024, for the additional vacancies; and

WHEREAS, the personnel committee recommends the following appointments for the 2024 Planning Commission:

Commissioner	Position	Term	Expires
Bruce Paulson	Regular	First three-year term (current alternate)	December 31, 2026
Chad Genz	Regular	First three-year term (currently on partial term)	December 31, 2026
Daryl Peterson	Regular	First three-year term (new commissioner)	December 31, 2026
Kevin Kamerud	Regular	Partial Term	December 31, 2024
Jake Weckman	Alternate	Partial Alternate Term	December 31, 2025

NOW, THEREFORE, BE IT RESOLVED, that, the City Council of Waconia hereby approves the Planning Commission appointments as recommended by the Personnel Committee.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023															
Item Name:		Adopt Resolution No. 2023-264 Approving the Appointment of Fire Department Officers															
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 No. 2023-264 Approving the Appointment of Fire Department Officers																	
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>																	
Per the Fire Department Handbook, the City Council appoints officers to the Fire Department on a bi-annual basis and on staggered terms. Applications for the vacant captain and assistant chief positions were accepted in November, and on December 6, Chief Sorensen and Jackie Schulze interviewed candidates. We recommend appointing the following officers to the terms outlined below: <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Officer Name & Position</th> <th style="text-align: left;">Term Expiration</th> </tr> </thead> <tbody> <tr> <td>Matt McDougall (Captain)</td> <td>12/31/2027</td> </tr> <tr> <td>Aaron Jurek (Captain)</td> <td>12/31/2027</td> </tr> <tr> <td>Drew Gulden (Captain)</td> <td>12/31/2027</td> </tr> <tr> <td>Mike Dressel (Assistant Chief - Operations)</td> <td>12/31/2027</td> </tr> </tbody> </table> All captains are part of the Duty Officer Rotation program.								Officer Name & Position	Term Expiration	Matt McDougall (Captain)	12/31/2027	Aaron Jurek (Captain)	12/31/2027	Drew Gulden (Captain)	12/31/2027	Mike Dressel (Assistant Chief - Operations)	12/31/2027
Officer Name & Position	Term Expiration																
Matt McDougall (Captain)	12/31/2027																
Aaron Jurek (Captain)	12/31/2027																
Drew Gulden (Captain)	12/31/2027																
Mike Dressel (Assistant Chief - Operations)	12/31/2027																
<u>Attachments:</u>																	
1. Resolution No. 2023-264 Appointing Fire Department Officers																	
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 - 264**

**RESOLUTION APPOINTING
FIRE DEPARTMENT OFFICERS**

WHEREAS, there are currently several Fire Department Captain and one Assistant Chief - Operations vacancy; and

WHEREAS, the City accepted applications for these vacancies in November of 2023; and

WHEREAS, the Fire Chief and Assistant City Administrator conducted interviews of those interested in these positions in early December; and

NOW, THEREFORE, BE IT RESOLVED, that, the City Council hereby appoints the following individuals the following positions within the Waconia Fire Department:

Officer Name	Term Expiration
Aaron Jurek (captain)	12/31/2027
Matt McDougall (captain)	12/31/2027
Drew Gulden (captain)	12/31/2027
Mike Dressel (asst. chief)	12/31/2027

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-265 Approving Liquor License Applications Renewals from February 1, 2024 through January 31, 2025					
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 No. 2023-265, Approving Liquor License Applications from February 1, 2024 through January 31, 2025							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
Applications for liquor licenses have been submitted and reviewed for the establishments listed in the attached resolutions. Liquor licenses will be issued upon approval by the State of Minnesota, Alcohol and Gambling Division and upon all conditions of licensing being met in accordance with City ordinances which includes completion of all forms, payment of fees and fines, receipt of certificates of insurance, proof of payment of state and local taxes, approval by the State Department of Revenue and the Bureau of Criminal Apprehension. As of now, the City is waiting on four licenses to be returned from Waconia businesses.							
Attachments: 1. Resolution No. 2023-265 Approving Liquor License Applications 2. 2024 List of Liquor Licenses Applicants							
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. 2023-265**

RESOLUTION APPROVING LIQUOR LICENSE APPLICATIONS

WHEREAS, Applications for liquor license renewals have been received in the Office of the City Clerk for the following licenses:

On-Sale Intoxicating Liquor
On-Sale Sunday Liquor
Off-Sale Intoxicating Liquor
Club
Wine
On-Sale 3.2% Malt Liquor
Off-Sale 3.2% Malt Liquor

WHEREAS, The applicants and their requested licenses/permits are identified on the attached list; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Waconia hereby approves Liquor Licenses for the term February 1, 2024, through January 31, 2025, contingent upon completion of all forms, payment of fees, receipt of certificates of insurance, proof of payment of state and local taxes, approval by the State Liquor Control, the State Department of Revenue, and the BCA, and other conditions as noted above.

Adopted by the City Council of the City of Waconia this 18th Day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk

LIQUOR LICENSES
February 1, 2024 - January 31, 2025

American Legion Post #150	Sunday Liquor Club
Body Gray's	Sunday Liquor On-Sale Intoxicating Liquor
Chumly's	Sunday Liquor On-Sale Intoxicating Liquor Off-Sale Intoxicating Liquor
Colony Plaza	Off-Sale Intoxicating Liquor
D'Vinci's	Wine On-Sale 3.2% Malt Liquor
Garage Bar & Bowl	Sunday Liquor On-Sale Intoxicating Liquor Off-Sale Intoxicating Liquor
Hopper's	Sunday Liquor On-Sale Intoxicating Liquor Off-Sale Intoxicating Liquor
Iron Tap	Sunday Liquor On-Sale Intoxicating Liquor Off-Sale Intoxicating Liquor
J. Carver Distillery	Microdistillery Cocktail Microdistilley Off-Sale Sunday Liquor
JDK (MGM)	Off-Sale Intoxicating Liquor
Kwik Trip, Inc. #460	Off-Sale 3.2% Malt Liquor
Kwik Trip, Inc. #1173	Off-Sale 3.2% Malt Liquor
New Perspective	Wine On-Sale 3.2% Malt Liquor
Northwoods Entertainment	Sunday Liquor On-Sale Intoxicating Liquor
Lola's Lakehouse	Sunday Liquor On-Sale Intoxicating Liquor Off-Sale Intoxicating Liquor
Mackenthuns	Off-Sale 3.2% Malt Liquor
Pangea	Wine On-Sale 3.2% Malt Liquor
El Loro	Sunday Liquor On-Sale Intoxicating Liquor
The Saloon	Sunday Liquor On-Sale Intoxicating Liquor Off-Sale Intoxicating Liquor
Target	Off-Sale Intoxicating Liquor
Waconia Baseball Association	On-Sale Intoxicating Liquor
Waconia Brewing Co.	Tap Room On Sale and Sunday
Waconia Liquors Inc	Off-Sale Intoxicating Liquor



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	December 18, 2023					
Item Name:	Adopt Resolution No. 2023-266 Approving Agreement with Senior Community Services					
Originating Department:	Administration					
Presented by:	Shane Fineran					
Previous Council Action (if any):	The 2024 operating budget included the continuation of a Senior Center Director position contracted through Senior Community Services continuing for the next calendar year. This contracted service was first realized in 2023 after many years of advocacy and volunteerism by the local community to support seniors within Waconia. The service contract provides for 20 hours per week of contracted programming led by a director position located within the the Senior Center space at City Hall. There has been noticeable results in the variety of programming offered, attendance, and hours of operation since the relationship with Senior Community Services began. The contract amount for 2024 for the contracted position is \$50,333 and in addition, \$10,000 has been budgeted to be utilized for materials, supplies, transportation, and expanded program offerings into 2024. The approval is dependent upon the approval of the proposed budget and levy for 2024.					
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 No. 2023-266 Approving Agreement with Senior Community Services						
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>						
<u>Attachments:</u> 1. Resolution No. 2023-266 Approving Agreement with Senior Community Services 2. 2024 Agreement for Senior Services						
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. 2023-266**

**RESOLUTION APPROVING AGREEMENT WITH SENIOR COMMUNITY
SERVICES**

WHEREAS, the City has built space for programming and gathering that is focused on older adults in the community; and

WHEREAS, the City desires to provide enhanced and additional services and programming to the older adults in the community that serve their health, wellness, social, financial wellbeing; and

WHEREAS, Senior Community Services have demonstrated ability and capacity to provide senior programming services in communities across the west metro and leverage their knowledge and professional network to enhance the lives of older adults; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Waconia hereby approves the agreement with Senior Community Services for senior programming services in 2024 contingent upon the approval of the 2024 budget and levy and directs the City Administrator to execute the agreement.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk

AGREEMENT FOR SENIOR SERVICES

This Agreement for Senior Services (Agreement) is made effective as of January 1, 2024, by and between the City of Waconia, a Minnesota municipal corporation (City) and Senior Community Services, a Minnesota non-profit corporation (SCS).

RECITALS

WHEREAS, the City owns and operates a Senior Center located at 201 S Vine Street (Senior Center); and

WHEREAS, SCS provides services to senior citizens and their caregivers; and

WHEREAS, Minnesota Statutes s §471.935 allows the City to appropriate funds to support non-profit organizations such as SCS to operate a Senior Citizens Center.

NOW THEREFORE, the parties agree as follows.

1. TERM. The term of this Agreement shall commence January 1, 2024, and expire December 31, 2024.
2. CITY FUNDING. The City agrees to provide \$50,333 to SCS in 2024 in 12 monthly payments of \$4,194.42 each to help support the costs of SCS in operating the Senior Center (City Funding). The first payment shall be made on or before the 10th of January, 2024, and each subsequent payment shall be made on or before the 10th of each following month until the final payment.
3. USE OF CITY FACILITIES FOR OFFICES. The City shall provide office space, telephone, and internet service for use by the Senior Center Director at the Waconia City Hall. The Senior Center Director shall be given key card access to City Hall and the Senior Center Premises in the City Hall for the duration of this Agreement. For purposes of this Agreement, the “Senior Center Premises” means the portion of City Hall that is designated by the City, from time to time, for use as a Senior Center. SCS’s use of the Senior Center Premises shall be limited to uses related to the operations of the Senior Center. SCS and the Senior Center Director shall not allow third parties to enter areas of City Hall outside of the Senior Center Premises and hallways providing access to the Senior Center Premises. Further, SCS shall not allow third parties to access or enter City Hall or the Senior Center Premises during hours when City Hall is not generally open to the public for any reason not related to Senior Center programming. SCS shall be responsible for the actions of any third parties to whom it gives access to City Hall and the Senior Center Premises.
4. SENIOR CENTER. The City is the owner of the Senior Center and shall maintain the Senior Center Premises in good condition and repair. SCS’s operations at the Senior Center shall take place during the City’s normal business hours.
5. CITY’S COOPERATION IN RECRUITING VOLUNTEERS. The City shall make reasonable efforts to help SCS recruit volunteers from citizens of the Waconia community to assist in

providing the services, programs and activities of the Senior Center. This volunteer time is extremely beneficial in making it possible to provide the desired services to the Waconia community. To the extent that the City's website, social media, or other published materials are used to recruit volunteers, such use must comply with Minnesota Statutes §10.60.

6. SENIOR CENTER OPERATION. SCS shall be responsible for the day-to-day operations of the Senior Center. Activities and programs occurring at and through the Senior Center shall be focused on improving the well-being of senior citizens in the Waconia community, including information and referral services, meal programs, health and wellness classes, educational opportunities, arts and humanities programming, intergenerational activities, volunteer opportunities, financial and benefits assistance, and other programs substantially related to the goals stated herein. In consideration of the City providing the City Funding, all costs of such operations and programming provided at the Senior Center shall be paid by SCS unless the parties agree in writing for alternative funding arrangements for specific programming.
7. PERSONAL PROPERTY. The City shall supply the personal property, if any, listed on Schedule A of this Agreement. SCS shall supply the personal property, if any, listed on Schedule B of this Agreement. Ownership of this property shall remain with the party who supplied the same and each party shall cooperate in the redelivery of such property in good working order and condition, reasonable wear and tear excepted, upon the termination of this Agreement. The schedules may be amended, from time to time, by written agreement of the parties.
8. SENIOR CENTER DIRECTOR. SCS shall provide a half-time (.50 FTE) Senior Center Director. All costs of salary plus fringe benefits shall be paid by SCS. Further, SCS shall be solely responsible for the administration and payment of all applicable federal, state, and local employment taxes and withholdings and shall provide workers' compensation coverage as required by Minnesota law.

SCS shall provide opportunities for the Senior Center Director to participate in service training, monthly SCS Senior Center Director meetings, and pay for registration costs to attend the Minnesota Association of Senior Services Annual Conference.

SCS shall provide supervision of the Senior Center Director and also pay for all indirect expenses of the Senior Center Director.
9. VOLUNTEER RECOGNITION EVENT. SCS shall pay for any required movie license and fund its volunteer recognition event(s).
10. EARLY TERMINATION. Notwithstanding anything to the contrary contained herein, either party may terminate this Agreement prior to the expiration of the term as follows: (a) without cause – by the delivery to the other party of thirty (30) days advance written notice of termination, or (b) for cause or material breach of this Agreement by the other party – immediately, by delivery of written notice. If this Agreement is terminated early

as provided herein, the support payment due to SCS shall be pro-rated on a per diem basis through the termination date.

11. NOTICES. All notices required to be given by either party pursuant to this Agreement shall be in writing and sent to the other party at the following addresses:

To the City: City of Waconia
Attention: City Administrator
201 S Vine Street
Waconia, MN 55387

To Senior Community Services: Senior Community Services
Attn: Deb Taylor, CEO
10201 Wayzata Blvd., Suite 335
Minnetonka, MN 55305

All notices shall be deemed received when delivered, if hand-delivered, or three business days after deposit with the United States Postal Service, postage prepaid. Notices by fax or email alone are not sufficient. The addresses for notices may be changed by the parties from time to time by delivery of written notice to the other party as provided herein.

12. NON-DISCRIMINATION. In the performance of this Agreement, neither the City nor SCS shall discriminate against any employee, applicant for employment, or user of the Senior Center because of age, race, color, creed, religion, national origin, sex, sexual orientation, marital status, disability, status regarding public assistance, or any other class afforded protection by applicable Minnesota and federal laws.
13. COMPLIANCE WITH LAW. Both parties shall comply with all requirements of Minnesota and federal laws, regulations, and local ordinances in their operations under this Agreement. Each party shall be responsible for their own employees' compliance with such laws, regulations, and ordinances.
14. INDEMNIFICATION. Each party shall defend, hold harmless and indemnify the other party and its elected or appointed officials, officers, agents, and employees from and against all claims, liability, costs expenses, loss or damages of any nature whatsoever, including reasonable attorney's fees, arising out of or in any way connected with its failure to perform its covenants and obligations under this Agreement or any of its operations or activities related thereto, excluding the willful misconduct or the negligence of the person or entity seeking to be defended, indemnified, or held harmless. The provisions of this paragraph shall survive the termination of this Agreement. This indemnification shall not be construed as a waiver of any immunities or limits on liability provided by applicable State law.
15. INSURANCE. The City shall provide property insurance coverage for the Senior Center Premises according to its customary practice. SCS, at its expense, shall procure and maintain in force for the duration of this Agreement the following minimum insurance coverages:

- A. General Liability. SCS shall maintain Commercial General Liability insurance in a minimum amount of \$1,000,000 per occurrence; \$2,000,000 annual aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal injury, advertising injury, and contractually assumed liability. The City shall be endorsed as additional insured on such policy.
- B. Commercial Automobile Liability Insurance, including owned, hired, and non-owned automobiles, with a minimum combined single liability limit of \$1,000,000. The City shall be endorsed as additional insured on such policy.
- C. Workers' Compensation. SCS shall maintain Workers' Compensation insurance for all its employees in accordance with the statutory requirements of the State of Minnesota.

SCS shall, prior to commencing any services, deliver to the City a Certificate of Insurance as evidence that the above insurance coverages are in full force and effect. The insurance requirements may be met through any combination of primary and umbrella/excess insurance. SCS's policies shall be primary insurance and non-contributory to any other valid and collectible insurance available to the City with respect to any claim arising out of SCS's performance under this Agreement. SCS's policies and Certificate of Insurance shall contain a provision that coverage afforded under the policies shall not be cancelled without at least thirty (30) days' advanced written notice to the City, or ten (10) days' written notice for non-payment of premium.

- 16. ASSIGNMENT. This Agreement may not be assigned by either party without the advance written consent of the other party.
- 17. ENTIRE AGREEMENT; AMENDMENT. This Agreement constitutes the entire agreement between the City and SCS and supersedes any and all other written or oral agreements between the parties related to the subject matter contained herein. This Agreement can be modified or amended only by written agreement signed by both the City and SCS.
- 18. NO AGENCY, PARTNERSHIP, OR JOINT VENTURE. This Agreement does not create any partnership, joint venture, association, employment, or principal and agent relationship between the City and SCS. Neither SCS nor the Senior Center Director shall hold themselves out as having any authority to bind the City contractually. Any contracts, agreements, or licenses relating to the operation of the Senior Center facility shall be in the City's name, negotiated by the City, and shall be signed by the City's authorized signers.
- 19. GOVERNMENT DATA PRIVACY. SCS agrees to abide by the applicable provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, HIPAA requirements and all other applicable state or federal rules, regulations or orders pertaining to privacy or confidentiality. SCS understands that all of the data created, collected, received, stored, used, maintained or disseminated by SCS in performing those functions that the City would perform is subject to the requirements of Chapter 13, and

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

20. AUDITS. Pursuant to Minn. Stat. §16C.05, subd. 5, SCS's books, records, documents, and accounting procedures and practices that are relevant to this Agreement are subject to examination by the City, the Minnesota Legislative Auditor, and the Minnesota State Auditor for up to six years from the expiration or earlier termination of this Agreement.
21. APPLICABLE LAW. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota, exclusive of choice of law principals.
22. SAVINGS CLAUSE. If any court finds any portion of this Agreement to be contrary to law, invalid, or unenforceable, the remainder of the Agreement shall remain in full force and effect.
23. SURVIVAL. The provisions found in Sections 14, 19 and 20 shall survive the expiration or earlier termination of the agreement.
24. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and together which shall constitute one and the same document. Signatures transmitted by fax, email, or other electronic means shall be deemed binding, delivered and enforceable.

IN WITNESS WHEREOF, the City and SCS have executed this Agreement effective as of the date first written above.

[Signature page follows.]

City of Waconia, Minnesota

Nicole Waldron, Mayor

Jackie Schultze, City Clerk

Senior Community Services

A handwritten signature in blue ink that reads "Deb Taylor". The signature is written in a cursive style with a large, looping initial "D".

Deb Taylor, CEO

SCHEDULE A
CITY'S PERSONAL PROPERTY

SCHEDULE B
SCS'S PERSONAL PROPERTY

Laptop

[https://mhslaw.sharepoint.com/sites/1/41908/draftdocs/contracts/senior center/12.20.2022 draft waconia senior center agreement.docx](https://mhslaw.sharepoint.com/sites/1/41908/draftdocs/contracts/senior%20center/12.20.2022%20draft%20waconia%20senior%20center%20agreement.docx)



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-267 Approving Contract for Police Services for 2024 Calendar Year.					
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 No. 2023-267 Approving the Contract for Police Services for 2024 Calendar Year with Carver County and Carver County Sheriff's Department.							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The 2024 budget provides for additional service for law enforcement through the contracted model with the Carver County Sheriffs office. The contract provides for 24/7 coverage with general patrol deputies working around the clock 12-hour shifts. Supervision is provided by a day-time Sergeant position. Additional patrol coverage is provided for in the power-shift patrol deputy working mid-afternoons into the evening hours. In mid-2023, the additional power-shift patrol deputy was added and is reflected in the budget for the full year and provides for a power shift deputy 7 days per week. Additionally, in partnership with School District 110 a School Resource Officer will be added to the contract. This position will start at the beginning of the school year in 2024. In this model the city and school district will split the cost of the SRO in the first year and a sliding scale over the course of the next two years, ultimately splitting the cost of an SRO at approximately 68% and 32% or based upon the hours of officer time allocated to the school district and the city throughout the year. When there is no time allocated to the school district the officer will be on general patrol within the city and this will include school breaks (winter break, spring break, summer months, etc.). A resolution from the School District 110 board affirming this partnership is attached. If the contract is approved staff will work on a sub-agreement between the city and school district for the SRO program. The contract also provides 40 hours per week of Community Service Officer time which supports patrol deputies in traffic control, park patrol, minor nuisance complaints, and parking enforcement. Overtime is also budgeted to provide back-fill coverage during absences and illness of regular patrol deputies. The total law enforcement budget stands at \$1,298,228 for 2024 and includes the patrol contract presented, overtime contingency, Southwest Drug Task force dues, and fine payments to Carver County. Contract approval is contingent upon adoption of the 2024 budget and levy.							
Attachments:							
1. Resolution No. 2023-267 Approving Contract for Police Services for 2024 Calendar Year 2. 2024 Police Services Contract with Carver County Sheriff 3. Waconia School District #110 Resolution of SRO Agreement							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses: General Fund>Law Enforcement							
Budget Information:				Planning Commission			
<u> X </u> Budgeted				Parks and Recreation Board			

_____ Non Budgeted _____ Amendment Required	Safari Island Advisory Board	
	Other	

**CITY OF WACONIA
RESOLUTION NO. 2023-267**

**RESOLUTION APPROVING CONTRACT FOR
POLICE SERVICES FOR 2024 CALENDAR YEAR**

WHEREAS, the City of Waconia (the “City”) desires to contract police services with Carver County and the Carver County Sheriff’s Department; and

WHEREAS, such contracts are authorized by the provisions of Minnesota Statutes, Chapter 471.59, and the 1961 Session Laws, Chapter 693; and

WHEREAS, said contract will be for police services provided during the 2024 calendar year under the terms and conditions contained within the contract.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Waconia, Minnesota, hereby approves the Contract for Police Services for the 2024 calendar year, attached hereto and by said references incorporated herein in its entirety conditioned upon adoption of the 2024 General Fund Budget.

BE IT FURTHER RESOLVED, that the Mayor and City Administrator are hereby authorized and directed to execute said Contract on behalf of the City.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk

CONTRACT FOR POLICE SERVICES

Waconia

THIS AGREEMENT, made and entered into this 18 day of December, 2023 by and between the County of Carver, through its Sheriff's Office (hereinafter, "County"), and the City of Waconia (hereinafter, the "City"), and, collectively known as the "parties".

WHEREAS, the City desires to enter into a contract with the County whereby the County will provide police services within the boundaries of the City; and

WHEREAS, the County agrees to render such services upon the terms and conditions hereinafter set forth; and

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

WHEREAS, Minnesota Statutes, Section 436.05 allows the sheriff of any county to contract for the furnishing of police service to a municipality; and

WHEREAS, this Agreement is authorized by Minnesota Statute, Section 471.59, 436.05,

NOW, THEREFORE, it is agreed between the parties as follows:

ARTICLE I

PURPOSE: The purpose of this Agreement is to secure police services for the City in the manner as hereinafter set forth.

ARTICLE II

1. POLICE SERVICES. The County agrees to provide police service within the corporate limits of the City to the extent and in the manner set forth below:
 - 1.1 Police services to be provided under this contract shall encompass those police duties and functions within the City's corporate limits of which the Sheriff and his duly assigned deputies shall exercise all the police powers and duties of city police officers as provided by Minnesota Statutes, Section 436.05.
 - 1.2 The County shall solicit City input related to assignment of personnel before making assignments. The County shall give thoughtful consideration to the City's input and shall retain the full and unrestricted right to assign personnel as necessary.

- 1.3 The County shall pay for all training costs associated with assigned personnel to maintain POST licensure and any other agency authorized training.
- 1.4 At a minimum, the County shall provide the City with monthly, quarterly, and annual reports including but not limited to calls for service by offense type, hour of the day, and day of the week. Such reports shall include an arrest summary, traffic citation summary, and verbal warning summary. Additionally, the County shall provide monthly, quarterly, and annual reports showing the number of CSO hours and types of calls for service CSO's responded to within the corporate City limits.
- 1.5 The rendition of services, the standard of performance, the discipline of deputies, and other matters of incident to the performance of such services and control of personnel so employed shall be and remain in and under control of the County.
- 1.6 The rendition of services shall include the enforcement of Minnesota State Statutes and the municipal ordinances of the City.
- 1.7 At the City's request, the County (i.e., Sheriff's contract manager or designee) shall meet with the City to discuss any questions, concerns, or requested modifications to the type of services provided, or manner in which such services are provided. In the event a dispute arises between the parties concerning services provided pursuant to this agreement, the County shall in good faith discuss a plan with the City; however, the County retains the sole discretion in determining a solution to said dispute (e.g., reassignment of personnel, types of patrol, level of service available).
- 1.8 The police services will be provided to the City for the selected number of contracted hours and/or full time equivalent (FTE) personnel. Such services shall not include situations in which, in the opinion of the County, a police emergency occurs which requires a different use of the personnel, patrol vehicle, equipment, or the performance of special details relating to police services. It shall also not include the enforcement of matters which are primarily administrative or regulatory in nature (e.g., zoning, building code violations).

ARTICLE III

SPECIAL EVENT OR ADDITIONAL SERVICES. If the City desires additional police services over and above the hours and/or FTE's contracted for in this Agreement, the City shall contact the Sheriff's Office contract manager or designee noted in this Agreement. The County will invoice the City for these additional services and the City shall make payment pursuant to Minnesota Statute, Section 471.425, subd. 2(a).

ARTICLE IV

COOPERATION AMONG PARTIES. It is hereby agreed that the parties and all of their officials, personnel, agents and employees shall render full cooperation and assistance to each other to facilitate the provision of the services selected herein.

ARTICLE V

1. PROVISION OF EQUIPMENT.

a). The County shall provide all necessary labor, supervision, vehicle, equipment, and supplies to maintain and provide the police services selected herein. All County property and equipment used in rendering services under this Agreement is, and shall remain, County property.

b). The City shall provide outdoor storage within the corporate limits of the City for patrol cars used for providing services pursuant to this Agreement. Indoor parking is at the discretion of the city and if chosen, no cost for maintenance of city facilities will be incurred by the county.

2. OFFICE SPACE. Police services shall be conducted out of office space selected and provided by the City that is sufficient to provide for the office needs of the assigned personnel.

3. FINANCIAL LIABILITY. The City shall not be responsible or liable for the payment of any salaries, wages, or other compensation to personnel employed by the County to perform services under this Agreement. It is agreed that all personnel shall be employees of the County and the County shall be responsible for providing worker's compensation insurance and all other benefits to which such personnel shall become entitled by reason of their employment with the County.

4. MUTUAL INDEMNIFICATION. Each party shall be liable for its own acts to the extent provided by law and hereby agrees to indemnify, hold harmless and defend the other, its personnel and employees against any and all liability loss, costs, damages, expenses, claims or actions, including attorney's fees which its personnel and employees may hereafter sustain, incur or be required to pay, arising out of or by reason for any act or omission of the party, its agents, servants or employees, in the execution, performance, or failure to adequately perform its obligations pursuant to this contract. Liability of the City and County shall be governed by the provisions of the Municipal Tort Claims Act, Minnesota Statutes, Chapter 466, and other applicable laws.

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

that statute, each party to this Agreement expressly declines responsibility for the acts or omissions of the other party.

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

- (a) This Agreement to indemnify and hold harmless does not constitute a waiver by either party of immunities from, or limitations on liability provided under Minnesota Statutes Section 466.04.

For purposes of determining total liability damages, the parties are considered a single governmental unit and the total liability shall not exceed the limits on governmental liability for a single governmental unit as specified in State Statute, Section 3.736 or Section 466.04, Subdivision 1.

5. INSURANCE. The County agrees that all insurance required to adequately insure vehicles, personnel and equipment used by the County in the provision of the selected services will be provided by the County.

ARTICLE VI

1. TERM. The term of this contract shall be January 1, 2024 to December 31, 2024. The term of this Agreement may be extended for up to an additional sixty (60) days under the same terms and conditions, provided the parties are attempting in good faith to negotiate a new Agreement. Unless otherwise terminated in accordance with Article VI, Section 3 of this agreement, this Agreement shall automatically terminate upon the parties' entering into a new written Agreement, or on the sixtieth (60th) day, whichever occurs first.

2. NOTICE.

2.1 If either party does not desire to enter into a contract for policing services for 2025, such party shall notify the other party in writing by July 1, 2024.

2.2 The City, if electing to terminate or discontinue contracted services, or decrease contracted police services, the City shall still be obligated to pay all unpaid personnel costs (e.g. OT and annual carryover), incurred prior to termination.

2.3 On or before June 1 of the current contract year, the County shall notify the City of the estimated police contract rates for the following year. The County shall provide proposed police contract rates by October 1 of the current contract year.

2.4 Notice under the above provisions shall be sent to:

Commander Mike Wollin
Carver County Sheriff's Office
606 East 4th Street
Chaska, MN 55318
952-361-1857
mwollin@co.carver.mn.us

City of Waconia
Shane Fineran, City Administrator
201 South Vine Street
Waconia, MN 55387
Phone: 952-442-3100
sfineran@waconia.org

ARTICLE VII

MENU OF POLICE SERVICES

1. POLICE STAFFING OPTIONS

1.1 FULL TIME EQUIVALENT (FTE) PERSONNEL OPTION

1.1.1 FTE personnel are Full Time Employees dedicated to the contract community.

The FTE deputies compensated time includes regular assignment duties, training, holidays, vacation, sick leave and other benefited time. The FTE deputy position is not automatically backfilled when the deputy is away from assignment for the above types of compensated time. The FTE deputy costs include: salary, benefits, supervision, administration, training, clerical support, insurance, and county overhead. The FTE costs do not include additional hours which are necessary for court or filling a shift for a compensated day off.

The first eighty (80) hours the deputy is gone from the community while on military leave will not be backfilled. The Sheriff's Office will backfill the position or credit back the time for military leave after the first 80 hours.

The first eighty (80) hours a deputy is gone from the community on FMLA leave will not be backfilled; it will be treated like sick leave. The Sheriff's Office will backfill the position or credit back the time for FMLA after the first 80 hours of FMLA is completed.

If the City requests coverage for compensated days off noted above, it is recommended the City set aside a contingency for additional hours. Additional hours for deputies will be billed at \$86.72 per hour.

The SouthWest Metro Drug Task Force will invoice \$2,100 separately.

Hours worked on a designated holiday will be billed at double the FTE's hourly pay rate per the collective bargaining agreement(s).

1.2 PERSONNEL COST

The County agrees to provide police services within the corporate City limits. Costs are set forth as follows:

Deputy –	6 (2184 FTE)	\$ 860,850
Sergeant –	1 (2080 FTE)	\$ 144,245
CSO -	1 (2080 hours)	\$ 78,894
SRO -	1 (2080 FTE w/ veh. starting 08/13/2024)	\$ 54,135

1.3 VEHICLE COST

Patrol Vehicle - 4	\$ 94,504
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1.4 TOTAL POLICE SERVICES \$1,232,628

2. PAYMENT. The County shall invoice the City for one half of the total contracted amount of the current year police staffing option cost hereunder, or \$616,314 to be paid on or before June 30 of the current contract year. The County shall invoice the remaining half, or \$616,314 to be paid on or before November 30 of the current contract year. The City shall promptly pay such invoiced amounts in accordance with applicable law. The Sheriff shall inform the City of the actual CSO hours worked for the year and then reimburse the City for unused CSO hours, bill for additional hours or deduct from applied year end credit for unfilled deputy FTE hours.
3. MINNESOTA STATE POLICE AID. The County, upon receiving Minnesota State Police Aid, shall reimburse the City pursuant to Minnesota Statute, Section 69.011.
4. POST REIMBURSEMENT. The County, upon receiving continuing education reimbursement, shall reimburse the city pursuant to the MN Administrative Rules, Peace Officer Standards and Training Board, Chapter 6700, part 6700.1800.

ARTICLE VIII

1. DATA. All data collected, created, received, maintained or disseminated in any form for any purposes by the activities of this Agreement is governed by the Minnesota Data Practices Act, Minnesota Statutes Chapter 13, or the appropriate Rules of Court and shall only be shared pursuant to laws governing that particular data.
2. AUDIT. Pursuant to Minnesota Statute Section 16C.05, Subdivision 5, the parties agree that the State Auditor or any duly authorized representative at that time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc. which are pertinent to the accounting practices and procedures related to this Agreement. All such records shall be maintained for a period of six (6) years from the date of termination of this Agreement.
3. NONWAIVER, SEVERABILITY AND APPLICABLE LAWS. Nothing in this Agreement shall constitute a waiver by the parties of any statute of limitation or exceptions on liability. If any part of this Agreement is deemed invalid such shall not affect the remainder.

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

4. MERGER AND MODIFICATION. It is understood and agreed that the entire Agreement between the parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. All items referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement. Any alterations, variations, modifications, or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing as an amendment to this Agreement and signed by the parties hereto.

IN WITNESS THEREOF, the City has caused this Agreement to be executed by its Mayor and by the authority of its governing body on this 18th day of December, 2023.

SIGNED: _____
Mayor, Nicole Waldron

DATE: December 18, 2023

SIGNED: _____
City Administrator, Shane Fineran

DATE: December 18, 2023

IN WITNESS THEREOF, the County of Carver has caused this Agreement to be executed by its Chair and attested by its Administrator pursuant to the authority of the Board of County Commissioners on this _____ day of _____, _____

COUNTY OF CARVER:

SIGNED: _____
CHAIR, BOARD OF COMMISSIONERS

DATE: _____

SIGNED: _____
SHERIFF

DATE: _____

Attest

SIGNED: _____
COUNTY ADMINISTRATOR

DATE: _____

**RESOLUTION RELATING TO A COMMITMENT TO THE REDEVELOPMENT OF AN
AGREEMENT FOR A SHARED-TIME, CARVER COUNTY LAW OFFICER DESIGNATED TO
SERVE BOTH WACONIA PUBLIC SCHOOLS ISD 110
AND THE CITY OF WACONIA**

WHEREAS, a joint powers agreement for a shared-time Carver County law enforcement officer, designated to serve Waconia Public Schools ISD 110 as a School Resource Officers (SRO) and the City of Waconia has existed in the past but does not exist at the present time;

WHEREAS, Waconia Public Schools ISD 110 recognizes the importance of a SRO to serve students, staff, and administrators by enhancing the safety and security of our facilities;

WHEREAS, the City of Waconia recognizes the importance of a designated law officer to serve the residents of the City of Waconia and its community including serving as a SRO;

WHEREAS, the City of Waconia and ISD 110 are in the process of establishing their respective budgets and levies for future years;

THEREFORE, BE IT RESOLVED, that Waconia Public Schools ISD 110 commits to partnering with the City of Waconia to reestablish an agreement for a shared-time SRO, designated to serve both Waconia Public Schools and the City of Waconia with the onboarding cost agreement as follows:

- For the first school year of the SRO, Waconia Public Schools ISD 110 will be prepared to pay 50% of the full cost of the SRO with the City of Waconia paying 50%.
- For the second school year of the SRO, Waconia Public Schools ISD 110 will be prepared to pay 59.23% of the full cost of the SRO with the City of Waconia paying 40.77%.
- For the third and subsequent school years, Waconia Public Schools ISD 110 will be prepared to pay 68.46% of the full cost of the SRO with the City of Waconia paying 31.54%, which represents the prorated timeshare for ISD 110 to have full service of the SRO for 173 work days plus 5 days of paid time off in a given year.
- Payment of these amounts is subject to final terms of a written agreement.

Waconia Public Schools ISD 110



School Board Chair

11/27/2023

Date



School Board Clerk

11/27/23

Date



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-268 approving use of Ice Arena Municipal Lot for Hockey Fights Cancer Event					
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 No. 2023-268, Approving Use of Parking Lot for Blue Line Club Hockey Fights Cancer Event							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The Boy's Blue Line Club, a local club that helps run events and pay for items for the boy's hockey team, is requesting to host a Hockey Fight's Cancer event on January 6, 2024 in honor of a former player. They plan to have a mobile food and coffee trucks outside the rink in the public parking lot for this event. The Blue Line Club is requesting use of the public parking lot for mobile food and coffee trucks during the hours of 9:00 a.m. to 4:00 p.m. for this event. Attachments: 1. Resolution No. 2023-268 Approving Use of Ice Arena Parking Lot for Blue Line Club Benefit 2. Ice Arena Food Truck Location Map							
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. 2023-268**

**RESOLUTION APPROVING USE OF ICE ARENA
PARKING LOT FOR
BLUE LINE CLUB BENEFIT**

WHEREAS, a use of parking lot request has been submitted by the Waconia Ice Arena and Boy's Blue Line Club for a Hockey Fights Cancer benefit on January 6, 2024 between the hours of 9:00 am and 4:00 pm.; and

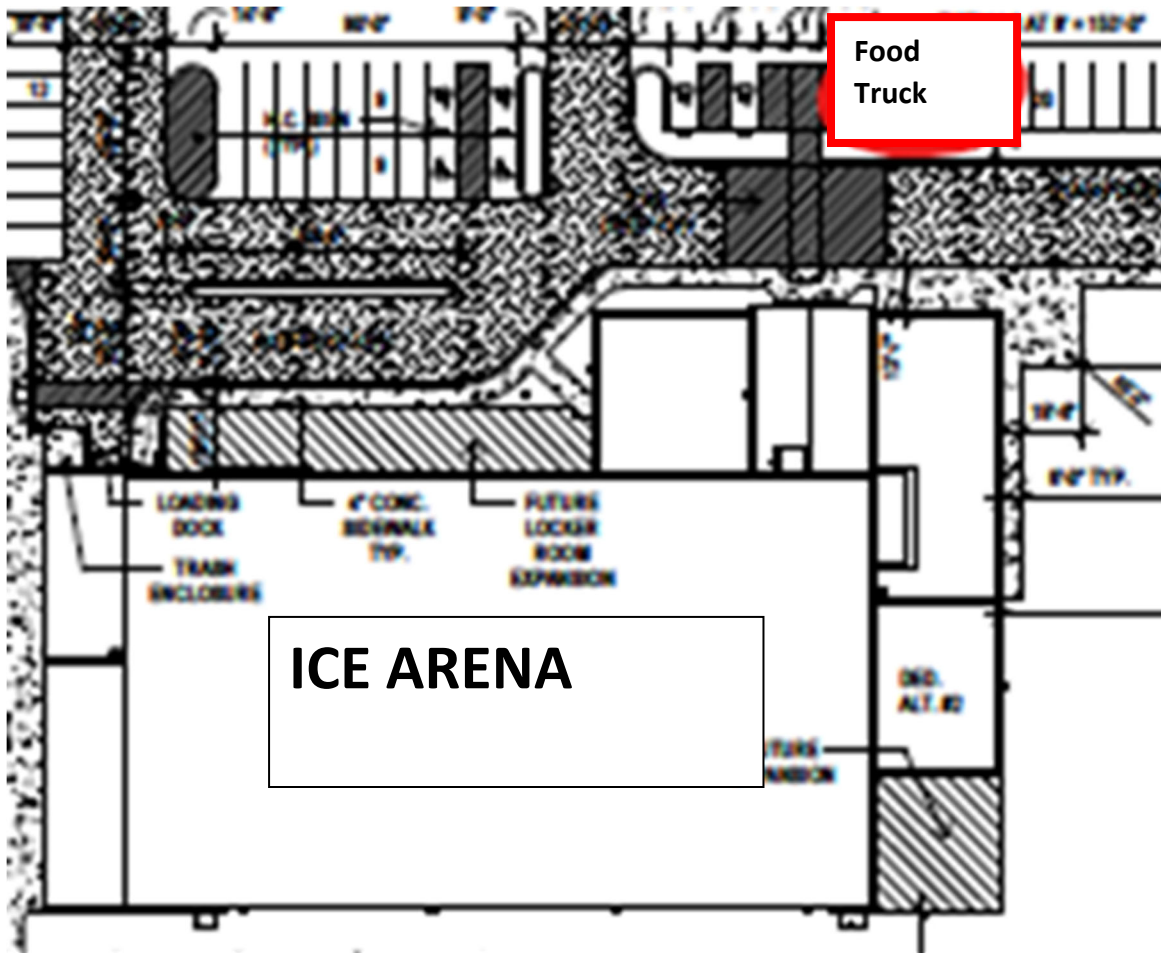
WHEREAS, said groups are requesting food trucks be allowed to be present at this event; and.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Waconia hereby approves the use of parking lot request.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk





REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	December 18, 2023
Item Name:	Adopt Resolution No. 2023-269 Approving Updated Employee Reference Manual
Originating Department:	Administration
Presented by:	Jackie Schulze

Previous Council Action (if any):

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

Adopt Resolution No. 2023-269 Approving Updated Employee Reference Manual

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

The City of Waconia makes updates to our employee reference manual on an annual basis based on policy recommended by the League of Minnesota Cities, state law changes, and policy updates. The version in front of the City Council has the following changes:

- Addition of Earned Sick & Safe Time Policy for paid-on-call firefighters and part-time, non-PTO eligible employees
- Addition of Juneteenth as a holiday
- Update to compensation section to discuss updated pay grids (10-step system, 3% between each step)
- Update to winter maintenance shift differential to compensate for hours starting at midnight (previously hours started at 2pm)
- Update to drug and alcohol testing policy for non-CDL driver's that references the legalization of cannabis. Use of cannabis is prohibited at work and employees cannot show up to work under the influence.

In addition to the policies outlined above, there were also several formatting, spelling, and grammar updates made to the reference manual that do not change the content.

Manual updates have been presented to all employees and the approved version will be placed on the employee intranet site. Employees are required to sign off on the changes.

Attachments:

1. [Resolution No. 2023-269 Approving Updated Employee Reference Manual](#)
2. [2024 City of Waconia Employee Reference Manual](#)

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 - 269**

**RESOLUTION APPROVING
UPDATED EMPLOYEE REFERENCE MANUAL**

WHEREAS, the City updates the employee handbook on an annual basis; and

WHEREAS, an updated handbook is necessary to have all City policies in one place and to communicate effectively to employees; and

WHEREAS, the updated reference manual includes several updated policies that reflect new state laws or are reflected in the 2024 budget, and

WHEREAS, it also includes several proofreading corrections from the previously approved version; and

NOW, THEREFORE, BE IT RESOLVED, that, the City Council hereby approves the Waconia Employee Reference Manual.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk



City of Waconia
Employee Reference Manual

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SECTION 1: CITY INFORMATION

VISION, MISSION, AND VALUES

Vision Statement

Waconia is a thriving, connected community with deep roots; a great place to live for a lifetime.

Mission Statement

Waconia is a City that leads, serves, and governs to enhance the quality of life for all community members.

Values

The City Council has identified values that reflect the desires and expectations for our work:

- Resiliency – maintaining, reacting to the unexpected, being adaptable
- Stewardship – caring for our fiscal health, environment, and assets (people and infrastructure)
- Embracing Diversity – providing a welcoming and engaging environment for all
- Health & Safety – encouraging and providing resources for healthy living and a safe environment
- Innovation – willing to try new things, managing risk, and celebrating successes

PURPOSE AND APPLICABILITY

Purpose

The purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the City of Waconia. The language of this Personnel Policy is not intended to nor does it create any form of employment contract between the City of Waconia and any employee. The policies are not intended to cover every situation that might arise and can be amended at any time at the sole discretion of the City. These policies supersede all previous personnel policies of the City or of any department.

In order to retain necessary flexibility in the administration of policies and procedures, the City of Waconia reserves the right to change, revise, or eliminate any of the policies and/or benefits described herein. The only recognized deviations from the stated policies are those authorized and adopted by the City Council. The provisions in this policy shall not be interpreted as creating anything other than an at-will employment relationship between the City and its employees. Except as otherwise prohibited by law, the City of Waconia has the right to terminate any employee at any time for any or no reason. Employees may similarly terminate employment at any time for any reason.

Applicability

This employee handbook and procedures manual has been developed for the specific purpose of explaining policies and procedures which affect all employees of the City of Waconia. These policies also apply to unpaid volunteers and elected and appointed officials as may be applicable pursuant to the specific policy and applicable laws.

The following groups are not covered by these policies:

- Consultants and advisory personnel such as engineers, attorneys, auditors, health officers, bond consultants, and such other personnel who may be engaged by the City from time to time as independent contractors;
- Emergency Employees
- County law enforcement personnel who contract with the City for services

Departments may have special work rules deemed necessary by the supervisor and approved by the City Administrator for the achievement of objectives of that department. In this case, such rules will be further explained and enforcement discussed with the employee by the immediate supervisor.

Nothing in these policies are intended to modify or supersede applicable state or federal law. Any employee with a written employment agreement shall be exempt from any provision of this part which is inconsistent with such agreement. Nothing in this part is intended to modify or supersede any provision of the Veteran's Preference Act, Minn. Stat. § 197.45 to 197.481.

DEFINITIONS OF TERMS

For purposes of these policies, the following definitions will apply:

- Authorized Hours:** The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee's supervisor.
- Benefits:** Privileges granted to qualified employees in the form of paid leave and/or insurance coverage.
- Benefit Earning Employees:** Employees who are eligible for at least a pro-rated portion of city-provided benefits. Such employees must be year-round employees who work at least 32 hours per week on a regular basis.
- Core Hours:** The core hours that all City Hall employees (exempt and non-exempt) are expected to work are 8:00 a.m. to 4:30 p.m. Monday through Friday. Core hours for Public Services Employees are 6:30 a.m. to 3:00 p.m. Monday through Friday. Public Services employees also have a rotating on-call schedule and are responsible for snow removal, which can take place during nights and weekends in the winter.

- E. **Direct Deposit:** As permitted by State law, all City employees are required to participate in the direct deposit of their paychecks.
- F. **Exempt Employee:** Employees who are not covered by the overtime provisions of the federal or state Fair Labor Standards Act.
- G. **FICA (Federal Insurance Contributions Act):** FICA is the federal requirement that a certain amount be automatically withheld from employees' earnings. Specifically, FICA requires an employee contribution of 6.2 percent for Social Security and 1.45 percent for Medicare. The city contributes a matching 7.65 percent on behalf of each employee. Certain employees are exempt or partially exempt from these withholdings (e.g., police officers). These amounts may change if required by law.
- H. **Fiscal Year:** The period from January 1 to December 31.
- I. **Full-Time Employee:** Employees who are required to work forty (40) or more hours per week year-round in an ongoing position.
- J. **Non-Exempt Employee:** Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for overtime or compensatory time at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given workweek.
- K. **Part-Time Employee:** Employees who are required to work less than forty (40) hours per week year-round in an ongoing position
- L. **Pay Period:** A fourteen (14) day period beginning at 12:00 a.m. (midnight) on Sunday through 11:59 p.m. on Saturday, fourteen (14) days later.
- M. **PERA (Public Employees Retirement Association):** Statewide pension program in which all city employees meeting program requirements must participate in accordance with Minnesota law. The city and the employee each contribute to the employee's retirement account.
- N. **Seasonal Employee:** Employees who work only part of the year (100 days or less) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn benefits or credit for seniority.
- O. **Temporary Employee:** Employees who work in temporary positions. Temporary jobs might have a defined start and end date or may be for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn benefits or credit for seniority.

CITY COUNCIL

The City of Waconia is a Statutory Plan A City with the Mayor/City Council having administrative and legislative responsibility. As the elected representatives of the community, the City Council establishes City policy and long-range community goals, and exercises budgetary control through the adoption of an annual budget.

City leadership consists of a Mayor and four Council Members. The City Council are elected at large to alternating four-year terms. The Mayor is elected at-large for a two-year term. The Mayor has one vote on the Council, as does each Council Member. City elections are held on the first Tuesday following the first Monday in November of even-numbered years.

The City Council meets regularly to consider ordinances, resolutions, and other such actions as may be required by law and circumstance. The various issues brought before the Council may be initiated by Council Members, advisory commissions, administrative staff, or residents of the community.

ADVISORY BOARD AND COMMISSIONS

The City Council receives advisory reports and recommendations from several citizen commissions. These commissions are appointed by the City Council. All commission meetings are open to the public and are held in the Council Chambers of Waconia City Hall (201 South Vine Street, Waconia).

ECONOMIC DEVELOPMENT AUTHORITY

The Economic Development Authority consists of five members; the Mayor and four Council members. Meetings are held, as required, as part of a regularly scheduled Council meeting. The Economic Development Authority (EDA) promotes economic development, including industrial and commercial development and expansion. The EDA has developed Waconia West Industrial Park and offers a Revolving Loan Program to businesses in the Downtown and Highway Business and Industrial Districts. Terms coincide with elected terms.

HOUSING AND REDEVELOPMENT AUTHORITY

The Housing and Redevelopment Authority (HRA) consists of five members; the Mayor and four Council members. Meetings are held, as required, as part of a regularly scheduled Council meeting. The HRA is responsible for addressing housing and redevelopment issues for the City of Waconia.

PLANNING COMMISSION

The Planning Commission reviews requests and applications to ensure compliance with the City's land use regulations and comprehensive plan. There are five members, with one alternate commissioner to act in the absence of any of the five commissioners. Commission members are appointed to three-year terms. Public hearings regarding development petitions and requests for variances from the zoning ordinance standards are conducted by this body.

PARK & RECREATION BOARD

This Commission reviews current and future community park and recreation needs, programs and facilities and recommends action to promote the implementation of the City's park, trail, and recreation plans. This board consists of five regular members, with one alternate to serve in the absence of any regular member. Terms are three years.

COMMISSION ON AGING

This Commission serves in the goal of addressing the special needs of the people who are aging in Waconia. These needs have been identified as, but are not limited to: transportation, independent living in the home, social and recreational activities, senior centers and housing. The Commission works in an advisory capacity to the City Council in how to best meet the needs of aging citizens as well as attract a similar population to the amenities the City possesses. There are five members, with one alternate, who serve three-year terms.

CITY DEPARTMENTS

ADMINISTRATION

The Office of the City Administrator comprises the Administration Department for the City. General administrative services for management of the City, coordination of City departments and personnel matters, and budget administration are performed by the City Administrator. The City Administrator's office also provides the Clerk functions of the City, as well as serving as the election administrator, processing license and permit applications, collecting and certifying special assessments, maintaining all official City records and contracts. Human resources, communications, and facility management are also found within this department.

The Administration Department also oversees Park and Recreation activities, including oversight of the Safari Island Community Center and the Ice Arena contracts.

FINANCE

The Finance Department is responsible for developing and implementing economic development opportunities for existing and new businesses; administering the City's Revolving Loan and other incentive programs; accounts payable and receivable; utility billing; investments; risk management; debt management; audit; internal control; payroll; budget preparation and administration; and assisting all departments with internal and external business procedures.

COMMUNITY DEVELOPMENT

This department oversees planning and development in the City and reviews applications and petitions to ensure compliance with zoning and land use regulations.

The City's Long Range Comprehensive Guide Plan is maintained by the Community Development Department. It promotes orderly development in the City. This department also reviews development requests, annexation petitions, administers and enforces the zoning ordinance and subdivision code, and provides support to the Planning Commission.

The Planning Department is responsible for processing all new construction and minor building permit applications and oversees the licensing of rental dwellings. Building inspections are currently conducted by an independent agency.

PUBLIC SERVICES

The Public Services Department conducts business between the hours of 7:00 a.m. - 3:30 p.m. Monday – Friday and is closed on legal holidays. The Public Services Department oversees the construction of public improvements. The Department consists of Streets, Street Lights, Storm Water, Parks and Public Utilities. The Public Services Department also updates the master park and trails plan and coordinates park and trail development. The Parks system is comprised of three community parks, 18 neighborhood parks, and a City owned cemetery.

Streets: The Street Division maintains and repairs City streets and alleys, storm sewers, public property, and City equipment, and coordinates the maintenance/replacement of street lights. Its duties include street and alley repair, seal coating, street sweeping, snow and ice control, and traffic sign maintenance. The Street Division also enforces weed ordinances and administers the City's boulevard tree program.

Public Utilities: The Utility Division consists of water and sanitary sewer utilities. This division operates and maintains the public water supply system including the water treatment facility, hydrants, City wells and water storage facilities, installation and maintenance of water meters, and the wastewater collection system including lift stations.

Parks: The Park Maintenance Division maintains City parks, athletic fields, park property, and trails. Much of the maintenance activities in City Parks is based on seasonal usage. In addition to physical maintenance of park amenities and equipment, Park Maintenance staff also is trained in horticultural maintenance such as prevention, diagnosis, and treatment of turf grass and tree disease, and pest infestation.

FIRE DEPARTMENT

The City is served by one fire station located on the western edge of the downtown district at the intersection of Maple and Main Streets. The Waconia Fire Department is a paid-on-call department, consisting of a full-time chief and paid-on-call firefighters who are considered part-time employees. The Department maintains a six-to-seven-minute total response time to any area within the City.

CONTRACTED SERVICES

The City of Waconia contracts several services to outside agencies. These services are subject to change at any time, and our current contracted services can be found below. Additionally, the City will, from time to time, work with other consultants or firms in all areas of operation.

SAFARI ISLAND AND THE ICE ARENA

The City contracts with Rink Management Services who manages day-to-day operation of Safari Island and the Ice Arena. While Rink Management operates these facilities, the City Council still has financial oversight and approval of the budget for Safari Island and the Ice Arena.

PUBLIC SAFETY

Law Enforcement is provided for the residents of Waconia via contract with the Carver County Sheriff's Department. Waconia has officers on duty that are dedicated solely to law enforcement within the City of Waconia. The deputies serve the City out of the Sheriff substation located at City Hall.

PROFESSIONAL ENGINEERING

Professional Engineering services are provided by Bolton & Menk. The City Engineer is responsible for activities associated with municipal engineering such as infrastructure planning, construction contract management, traffic and transportation engineering, facility development, and representing the City's interest in projects with regional and state partners such as MNDOT and Carver County.

LEGAL SERVICES

Legal Services are provided by Melchert Hubert Sjodin, PLLP. The firm acts as the City Attorney and provides legal advice and counsel to the City Council and staff in such matters as ordinance creation and amendments, contracts and language, and employment law. Crimes or ordinance violations that are committed within City limits are prosecuted by the Carver County Attorney's Office.

BUILDING INSPECTION

The City Building Official and Building Inspection services are provided by Metro West Inspection Services, LLC. This firm conducts all construction related inspections for residential commercial, and industrial buildings. The inspection service ensures that all structures build within the City are done so according to the proper specifications as set forth by the building code and City ordinance.

SECTION 2: EMPLOYMENT

DATA PRACTICES AND PERSONNEL FILES

All information created by the City is governed by the Minnesota Government Data Practices Act. While most government data is considered public information, in some instances some or all of the information the City creates may be considered private. All requests for government data must be submitted to the responsible party as designated by the City Data Practices Policy.

Employee records are maintained in a location designated by the City Administrator. Personnel data is kept in personnel files, finance (payroll) files, and benefit/medical files. Information is used to administer employee salary and benefit programs, process payroll, complete state and federal reports, document employee performance, etc.

Employees have the right to know what data is retained, where it is kept, and how it is used. All employee data will be received, retained, and disseminated according to the Minnesota Government Data Practices Act. Employees who wish to review the data contained in their personnel file can do so once every six months.

More information regarding the City's Data Practices Policy can be found on the City's website (<http://www.waconia.org/212/Government-Data>).

EQUAL EMPLOYMENT OPPORTUNITY

The City of Waconia is committed to providing equal opportunity in all areas of employment, including but not limited to hiring, demotion, transfer, recruitment, selection, lay-off, disciplinary action, termination, compensation, and selection for training. The City of Waconia will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, disability, age, familial status, marital status, political affiliation, status with regard to public assistance, status with respect to genetic medical information or membership on a local human rights commission, or because of the exercise of rights under provisions of the Public Employment Labor Relations Act, Minn. Stat. § 179.61 to 179.76, or any other class or characteristic protected by law. Harassment against any applicant or employee due to his/her protected class status is strictly prohibited and will result in disciplinary action, up to and including involuntary termination of employment.

IMMIGRATION LAW COMPLIANCE

The City is committed to employing only United States citizens and aliens who are authorized to work in the United States and does not unlawfully discriminate on the basis of citizenship or national origin.

In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 and

present documentation establishing identity and employment eligibility. Former employees who are rehired must also complete the form if they have not completed an I-9 with the City within the past three years, or if their previous I-9 is no longer retained or valid.

Employees with questions or seeking more information on immigration law issues are encouraged to contact the City Administrator. Employees may raise questions or complaints about immigration law compliance without fear of reprisal.

DISABILITY ACCOMODATION

The City of Waconia is committed to complying fully with the Minnesota Human Rights Act, the Americans with Disabilities Act, and the Americans with Disabilities Amendments Act ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) in job assignments, classifications, organizational structures, position descriptions, lines of progression, and seniority lists. Leave of all types will be available to all employees on an equal basis.

The City of Waconia is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability.

This policy is neither exhaustive nor exclusive. The City of Waconia is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the Minnesota Human Rights Act, the Americans with Disabilities Act, and the Americans with Disabilities Amendments Act.

APPOINTMENTS

Every appointment to municipal service shall be made in accordance with the hiring practices as approved by the City Council. When required by law or by the Council, merit and fitness shall be ascertained by written, oral, or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held. The City Council shall reserve the right to interview all final candidates for a given position if the Council deems such interview to be desirable.

The City of Waconia is committed to complying fully with all applicable State and Federal laws relating to equal opportunity employment. All employment practices and activities are

conducted on a non-discriminatory basis. This policy is neither exhaustive nor exclusive. The City of Waconia is committed to taking all other actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the Minnesota Human Rights Act, the Americans with Disabilities Act, and the Americans with Disabilities Amendments Act.

APPLICATION FOR EMPLOYMENT

All individuals seeking employment with the City of Waconia shall complete and sign the appropriate “Application for Employment” form prior to being given consideration for employment. Unsolicited applications received by the City will not be kept on file and will be securely destroyed.

All applications received during an active recruitment period shall be kept in the “Active” file for a period of one (1) year. If an applicant desires to keep their application active beyond that time, he/she will be required to bring the existing application up-to-date or fill out a new application. Unsolicited applications will not be kept on file.

If an applicant is interviewed, but not hired, his/her application will continue to be kept active for a two (2) year period and will be again considered, as another position becomes available.

All applicants should indicate specific job titles when applying simultaneously for two or more openings.

HIRING PROCEDURES

The City Council reserves the right to deviate from this hiring practice upon reasonable documentation for the alteration at its sole discretion.

Hiring Authority

The City Council shall make all employee appointments on the recommendation of the Personnel Committee. Exception: The Council grants authorization to the City Administrator to appoint seasonal and temporary part-time employees, subject to budget limitations.

Hiring Process

The hiring process shall be coordinated through the office of the City Administrator. Job descriptions, testing, interviewing and evaluation of applicants shall be coordinated by the office of City Administrator and the appropriate Department Head. Recommendations of appointment shall be made by the City Administrator, who will confer with the Personnel Committee, with final appointment being granted by the City Council. When required by law or by the Council, merit and fitness shall be ascertained by written, oral, or other examinations designed to evaluate the ability of the candidate to discharge the position for which the examination is held. The City Council shall reserve the right to interview all final candidates for

a given position if the Council deems such interview to be desirable, including part-time and seasonal employees.

The Office of the City Administrator is authorized to advertise for vacancies in existing full-time non-exempt positions. All new full-time positions and vacant full-time exempt positions require Council authorization to advertise.

Part-time and seasonal employees who have left employment with the City in good standing, and are re-hired to their previous position within twelve months of leaving that position are eligible to return to employment at the same pay step as when they had left. An employee whose separation from City employment extends beyond twelve months and is re-hired to the same or similar position will be paid at a step rate at the discretion of the City. Any employee who returns to employment with the City in a different capacity will be paid at step one of the appropriate pay scale or as otherwise negotiated by the City.

Job Postings

Vacant full-time exempt positions shall be posted externally. All full-time non-exempt positions shall be posted internally, provided

- the City Administrator determines that sufficient qualified candidates are available within the City for the position; or
- the opening represents a natural career progression for an employee.

Firefighters, part-time, and full-time employees may be considered during the internal posting period of full-time position vacancies and may submit applications for externally posted vacancies.

Internal recruitments will be open to any City employee who: (1) has successfully completed the initial training period; (2) meets the minimum qualifications for the vacant position; and (3) currently is and for the past year has been in good standing with the City. The internal posting period shall be five days. Internal postings will occur on the City's intranet site. This policy is not a waiver of job-relevant qualifications for this position, nor is it a guarantee of promotion to existing employees.

Upon review of the qualifications of any and all internal applicants, the City shall reserve the right to advertise externally using some or all of the following: City web site; local and/or state-wide newspaper; League of Minnesota Cities; trade schools/publications.

Job postings shall contain a brief description of the minimum qualifications, starting salary range, closing date, how to obtain and where to return applications, and other requirements unique to the position.

Hiring

Job descriptions are written for each job and reviewed for accuracy on a periodic basis. In order to compare and evaluate candidates, applications shall be reviewed based on a rated 100point scale, based on the duties identified in the job description. The hiring decision shall be based on ability, aptitude, examination results (medical, drug and alcohol testing, successful completion of a background check, or as may be required in the job description), and the determination that the individual's knowledge, skills, and abilities best meet the needs of the City for the position.

Part-Time/Seasonal Employees

The City shall not be obligated to publicly advertise seasonal or part-time job openings in an effort to reduce costs associated with placing advertisements, provided an adequate number of qualified candidates are identified by the supervisor.

These seasonal employment positions shall be subject to budget and staffing limitations as established by the City Council via annual resolution approving FTEs. Recommendation for appointment of Part-Time/Seasonal employees shall be made by the supervisor to the City Administrator.

No person shall be considered approved for employment nor shall they report for work until:

- The applicant has completed the employment application and any/all appropriate testing procedures including, but not limited to, the successful passage of a drug and alcohol test.
- The applicant has been interviewed and recommended for appointment.
- The applicant has successfully passed a background investigation, if required, and any/all pre-employment physicals.
- City Council, or its designee, has approved the applicant's appointment.

All persons entering City employment shall report to the office of the City Administrator for the purpose of completing the required employment enrollment forms (W-4, I-9, etc.) prior to performing any work activities or duties.

PRE-EMPLOYMENT MEDICAL EXAM

The City Administrator or designee may determine that a pre-employment medical examination is necessary to determine fitness to perform the essential duties of any City position. Where a medical examination is required, the offer of employment will be made contingent upon successful completion of the medical exam. The physician conducting the exam will normally be provided with a description of the essential duties and responsibilities and other pertinent information on the position to aid in the determination of the candidate's ability to perform the essential functions of the job in question. If the City determines that pre-employment medical

exams will be required, they will be required of all candidates who are conditionally offered employment for a given job class. The information obtained during the medical exam will be treated as confidential medical records.

The exam will be conducted by a licensed physician designated by the City and the cost of the exam will be paid for by the City. The physician will notify the recruiter that a candidate either is or is not medically able to perform the essential functions of the job. If the employee requires a reasonable accommodation to perform one or more of the essential functions of the job, the supervisor and City Administrator will confer with the physician regarding acceptable reasonable accommodations. The supervisor will inform the candidates of the results of their examination. If the candidate is rejected for employment based on the results, he/she will be notified of this determination and may request further explanation from the physician.

PRE-EMPLOYMENT BACKGROUND STUDY

All finalists for employment with the City will be subject to a background study to confirm information submitted as part of the application materials and to assist in determining the candidate's suitability for the position. In accordance with federal, state, and local law, the City conducts a pre-employment background check which includes a credit check, verification of past employment and education, and a criminal record check of candidates who have received a conditional offer of employment. Except where already defined by state law, the City Administrator will determine the level of background study to be conducted based on the position being filled and disqualification criteria based on the applicability to that position. Finalists who may be disqualified from employment with the City based upon their criminal background will have the opportunity to demonstrate rehabilitation in accordance with Minn. Stat. § 364.01-364.10

RESPONSE REQUIREMENTS

Pursuant to Minn. Stat. § 415.16, Subdivision 3, the City of Waconia has the authority to request certain employees to live within a reasonable distance of the community if there is a demonstrated job-related necessity. All paid on-call firefighters employed by the City shall live in the fire service area or have the ability to arrive at the fire station within a 15 minute timeframe, as driven under normal weather conditions and following posted speed limits.

VETERAN'S PREFERENCE

Preference shall be accorded Veterans pursuant to applicable state law, Minn. Stat. § 197.46. Veteran's Preference is applicable in cases where an open competitive examination is given. Veteran's Preference shall be available to every person who has been separated under Honorable conditions from any branch of the Armed Forces of the United States:

- After having served on active duty 181 consecutive days or,
- By reason of disability incurred while serving on active duty and,
- A citizen of the United States or a resident alien.

Veterans thus preferred shall not be disqualified from holding any position on account of age or by reason of any physical disability provided such age or physical disability does not render them incompetent to perform duties of the position.

NEPOTISM

The potential for conflicts of interest are increased when personnel who are related are employed by the same employer; and real or implied conflicts of interest can result in distrust and a general lack of harmony among other employees.

No person shall be appointed, promoted, demoted or transferred to a position where that person would be on a daily basis supervising, or receiving supervision from that person's spouse, any person permanently residing with the employee, a child, parent, sibling, grandparent, or grandchild of either the employee or of the employee's spouse. Employees may be temporarily placed in the position of supervising a relative, with the advance approval of the City Council. Such temporary supervision shall not last more than six months and be limited to providing work direction, and shall not include the authority to recommend hiring, promoting, terminating, disciplining, or adjusting the compensation of a relative.

No language in this policy is intended to discriminate against any individual on the basis of marital status or any other protected class status under any applicable federal or state law including, but not limited to, the Minnesota Human Rights Act, Minn. Stat. § 363. The City, in administering this policy, will take all steps to fully

SECTION 3: ATTENDANCE

ATTENDANCE AND ABSENSE

ATTENDANCE POLICY

The operations and standards of service in the City of Waconia require that employees be at work unless valid reasons warrant absence. For a team to function efficiently and effectively, employees must be on the job. All employees are expected to perform their regular work duties when required to do so by proper authority, including situations where the workday or workweek requires additional hours or different hours from that normally scheduled.

Attendance is an essential function of every City position. It is expected that all employees will report to work on time, use their available hours to the best advantage, and leave only after the regular working hours are complete.

Employees who are going to be absent from work are required to notify their supervisor as soon as possible in advance of the absence. In case of unexpected absence, employees or their designee should make every effort to contact their supervisor at least 30 minutes before the scheduled starting time if possible. If the supervisor is not available at the time, the employee should leave a message that includes a telephone number where he/she can be reached and/or contact any other individual who was designated by the supervisor. Failure to use the established reporting process will be grounds for disciplinary action. Departments may establish more specific reporting procedures.

The employee must call the supervisor on each day of an absence extending beyond one (1) day unless arrangements otherwise have been made with the supervisor. Employees who are absent for three (3) days or more and who do not report the absence in accordance with this policy, will be considered to have voluntarily resigned not in good standing. The City may waive this rule if extenuating circumstances warranted such behavior. This policy does not preclude the City from administering discipline for unexcused absences of less than three (3) days.

MEAL BREAKS & REST PERIODS

Every regular employee, when working under conditions where a break period is practicable, will be allowed a fifteen (15) minute paid break within each four (4) consecutive hours of work. An unpaid thirty (30) minute lunch period is provided when an employee works eight or more consecutive hours. The two fifteen minute breaks may be combined with an employee's lunch break to account for a one-hour lunch. Each supervisor shall schedule rest periods so as not to interfere with work requirements. Departments with unique job or coverage requirements may have additional rules, issued by the supervisor and subject to approval of the City Administrator, on the use of meal breaks and rest periods.

Employees should be taking their two 15 minute breaks during the day. Unless specifically asked to work through a 15-minute break by the supervisor, an employee is not allowed to "bank" their 15-minute break hours as compensatory time or to use to leave earlier in the day, unless previously approved and discussed by a supervisor. Breaks should not be taken at the end of the day, unless previously approved by a supervisor.

HOURS OF WORK

Work schedules for personnel shall be established by the City Council and City Administrator. The regular work week for full time employees at City Hall is four nine-hour working days, Monday through Thursday and one four-hour working day on Friday. The regular work week for

full-time employees at Public Services is five eight-hour working days Monday through Friday. The City Administrator may assign different schedules in accordance with the custom and needs of the individual department or facility. Flexible schedules will be allowed per the approval of the department head and assuming sufficient coverage is in place for departmental operations and business need.

It is recognized that jobs and work schedules may change over time to respond to the changing needs of the organization. In general, personnel of the following departments or facilities will be expected to work during the following hours:

- City Hall 7:30 a.m. – 4:30 p.m. – Monday through Thursday & 7:30 a.m. – 11:30 a.m. on Fridays
- Public Services 6:30 a.m. – 3:00 p.m.

ON-CALL SCHEDULE

Policy: The City assigns non-exempt Public Services employees in the parks, streets, and utilities divisions to be on-call outside of regular operating hours, including weekends and holidays. The on-call schedule starts at **3:00 pm or the end of business day on Friday and ends at 3:00 p.m. or the end of business day on the following Friday.**

Employees who are scheduled to be on call must:

- Be available at all times
- Be within the range of a telephone and respond to any calls within 15 minutes
- Ensure quick response time to the City of Waconia within half an hour of taking the call
- Abstain from drinking alcohol or using controlled substances while on call
- Complete reports as required

Employees who are part of the on-call rotation are guaranteed a one-hour minimum for call-back pay. Pay for callbacks begins at the start of the call.

Employees will be compensated for their time on call. An employee who is on-call will receive a **\$250 stipend for the week they are on call.** If an employee is on-call on New Year's Day, 4th of July, Thanksgiving Day, Christmas Eve, or Christmas Day, they will receive an additional \$50 per actual holiday.

On-Call Scheduling: The on-call schedule will be published at least three months in advance. In the case of a staffing change, the on-call schedule will be updated within 30-days of the occurrence.

Adjusting On Call Shifts: Employees who trade on-call shifts must do so for the entire week and plans must be made at least two weeks in advance. Shift trades must be approved by the supervisor. If an employee has questions or concerns regarding a specific shift or day they are

assigned on call, they must work with their supervisor at least two weeks in advance. Flexibility regarding on-call shifts is at the discretion of the supervisor. Said discretion and flexibility includes supervisor notification and approval of the individuals responsible. The individual assigned the on-call is required to line up their individual for coverage and response if they are unable to do so. It is therefore, the on-call employee's responsibility to ensure adequate response, either their own or another individual. Failure to do so institutes the "Failure to Comply with Policy" language. This item is limited and at the discretion of the supervisor.

Failure to Comply with Policy: An employee who is not answering their phone or responding to calls in a timely manner will be subject to the city's disciplinary policy and loss of on-call pay for the period assigned.

SNOW REMOVAL

Public Services employees are responsible for snow removal within City of Waconia limits during the winter months. During active months (based on seasonal requirements and public demand), employees must be available for call backs, early starts, and extended days, unless the employee has a pre-approved absence. Employees should talk with their supervisor when unavailability occurs to obtain prior approval.

WINTER MAINTENANCE SHIFT DIFFERENTIAL COMPENSATION

Programmed Snow Removal (Including Hauling Operations)

Time of operations and staffing needs are determined by department supervisors or the Public Services Director in their absence.

Call-In & Normal/Extended Operations

1. .5 Shift Differential Pay for hours from 12:00 a.m. to 6:30 a.m. related to snow removal activities. Normal compensation would start for hours worked beyond 6:30 a.m.
2. After hours, or extended hours of a typical day beyond eight (8) hours of service would be managed as current policy states regarding overtime and compensatory time.
3. Shift differential (#1) shall be paid no matter the physical time served during the week.

Holiday Operations

1. 1.5 shift differential in pay for hours of service for operations including snow removal and hauling. Shift differential shall be paid no matter the physical time served during a pay period. This would be for both actual and overserved holidays.

All conditions regarding winter maintenance shall be documented by supervisor and accounted for in winter operations reporting for each activity and event.

ADVERSE WEATHER CONDITIONS

City facilities will generally be open during adverse weather. Due to individual circumstances, each employee will have to evaluate the weather and road conditions in deciding to report to work (or leave early). Employees will be allowed to use accrued paid time off or compensatory time; or with supervisor approval, may modify the work schedule or make other reasonable schedule adjustments in the event of an absence due to adverse weather conditions.

Public Services maintenance personnel will generally be required to report to work regardless of conditions.

Decisions to cancel departmental programs (special events, recreation programs, etc.) will be made by the respective supervisor or City Administrator.

ESSENTIAL EMPLOYEES

The City Council has a duty, insofar as possible, to protect the health, safety, welfare, and property of City residents. To fulfill these duties, it may be necessary to recall certain essential City employees in times of disaster or emergencies. To ensure prompt response to such situations, certain employees are required to be available at all times (unless other arrangements are made subject to the approval of the City Administrator) in order to fulfill their job duties.

- A. Applicable Job Class: Firefighters, Maintenance Supervisors in Streets, Utilities, and Parks divisions, and all Maintenance Worker positions within Public Services
- B. Compensation: Employees who shall be required to report to work at hours other than the normal Work Hours as provided in this policy, shall be compensated for a one hour minimum from the time they report to work. Any time incurred in excess of one hour shall be accounted for under normal procedures.

FIREFIGHTER RESPONSE

To minimize the loss of life and property for the City of Waconia, and areas serviced by the Waconia Fire Department from fires, natural disasters, and life-threatening situations, the City allows regular full-time and part-time employees who are members of the WFD to respond to emergency calls during normal working hours or scheduled shifts under certain circumstances to assist with maintaining a vital response force. However, the City of Waconia considers a regular employee's position at the City of Waconia to be their primary employment, and it should be treated as such, with their secondary role being with the Fire Department.

PROCEDURE

An employee must use proper judgment in determining if they are to respond to an emergency call or not. Responding to a call cannot disrupt the work of others or add costs to City budgets. Response to an emergency call during assigned working hours will depend upon the task or job

they are performing. Employees are not to leave facilities in which they are the sole person on duty during open business hours. Employees who are paid on-call firefighters in another community may not respond to calls during the workday, unless approved by their supervisor to use PTO.

Employees must notify their supervisor before leaving work to respond to an emergency call. This should occur prior to the employee leaving the building or job site. Employees should make every effort to contact their supervisor directly, either via radio, cell phone, or office phone. Leaving a message on the supervisor's voicemail is an acceptable form of notification if they are unable to reach their supervisor directly.

CITY VEHICLES

Employees can report to the Fire Station in a City vehicle if they are working alone, or are the only one using said vehicle, and that taking the vehicle would not be disruptive to the City's operations. Employees must also not take a vehicle from a job site which leaves a co-worker stranded. The co-worker may transport the employee to the Fire Station so that they can respond to the call but must return immediately to the job site.

RETURNING TO WORK

Returning to Work: The employee is to return to work as soon as they are released from the call or if it is cancelled, permitted there is any time remaining in the regularly scheduled workday or shift. Employees must return immediately to work once all equipment and apparatus has been put back into service or are released by the Officer in Charge. Employees must notify their supervisor once they have returned to work.

TRAINING OR OTHER DEPARTMENT DUTIES

Employees may not attend fire department training during regular work hours or shifts, or while performing work in an on-call capacity. Employees who wish to attend training during regular work hours can request to use PTO, pending supervisor approval for time off. Employees may not perform duties other than responding to emergency calls during regular work hours, but can request to use PTO, pending supervisor approval. Employees may engage in or assist with fire safety education and awareness in the community without using PTO pending supervisor approval.

TIME SHEETS AND PAYROLL

Employees will receive their regular rate of pay for hours spent responding to an emergency call during their normal workday or shift. Employees may not claim fire pay when they are paid at their regular rate while responding to calls. If an employee responds to an emergency call while working in their primary position, they will not be paid overtime for hours worked in the

secondary position during the normal workday. Overtime will be paid for hours worked in a secondary position only if the employee worked at least 40 hours between the primary and secondary position during the work week. Paid Holidays, Compensatory Time, and PTO does not count as time worked per City policy and any calls responded to while using PTO or during a paid holiday will be paid at the regular rate of the secondary position. The Fire Chief will submit bi-weekly reporting to Business Development & Finance on which employee's fire call response, date, and time, will be included. BDF staff will reconcile actual time worked between the primary and secondary positions and all earned pay will be paid on the regular bi-weekly pay schedule.

SECTION 4: LEAVES OF ABSENCE

REQUESTING A LEAVE

An employee requesting a leave of absence must first submit a request to their supervisor, who will then inform the City Administrator of the request for leave. Final approval will come from the City Administrator. Please note that some leaves outlined below do have a more detailed process for requesting leaves.

FAMILY MEDICAL LEAVE ACT (FMLA)

OVERVIEW

FMLA requires covered employers to provide up to 12 weeks of unpaid, job protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job; or
- For qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or called to active duty status as a member of the National Guard or Reserves in support of contingency operations.

Under some circumstances, employees may take FMLA leave intermittently – which means taking leave in blocks of time, or by reducing their normal weekly or daily work schedule.

- If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

- FMLA leave may be taken intermittently whenever medically necessary to care for a seriously ill family member, or because the employee is seriously ill and unable to work.

ELIGIBILITY

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

BENEFITS AND PROTECTIONS

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

DEFINITION OF A SERIOUS HEALTH CONDITION

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
- continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:
 - A health condition (including treatment therefore, or recovery therefrom) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
 - treatment two or more times or under the supervision of a health care provider; or
 - one treatment by a health care provider with a continuing regimen of treatment; or
 - Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
 - A chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider (at least twice a year), and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or

- A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
- Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).

NOTICE AND CERTIFICATION

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable—generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for an employer reasonably to determine whether the FMLA may apply to the leave request. Depending upon the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave for a FMLA-qualifying reason for the first time, the employee need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employers may also require employees to provide:

- medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member;
- second or third medical opinions (at the employer's expense) and periodic recertification; and
- periodic reports during FMLA leave regarding the employee's status and intent to return to work.

When intermittent leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the employer's operation.

CITY RESPONSIBILITIES

They City must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employee's rights and responsibilities. If they are not eligible, the City must provide a reason for the ineligibility.

The City must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the City determines that the leave is not FMLA-protected, the City must notify the employee.

UNLAWFUL ACTS BY EMPLOYERS

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

ENFORCEMENT

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the City. FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

MILITARY FAMILY LEAVE ENTITLEMENTS

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retire list.

SUBSTITUTION OF PAID LEAVE (COMPENSATORY, EXTENDED SICK, & PTO)

Employees have the right to take their FMLA leave paid, unpaid, or a mix there-of, but must let their supervisor and payroll know their plans in advance.

If an employee is proposing an intermittent schedule regarding use of leave time, they must submit a formal proposal to their supervisor and/or department head, who will review the request with the City Administrator.

OTHER PROVISIONS

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for FLSA’s exemption extends only to “eligible” employees’ use of leave required by FMLA.

The FMLA does not affect any other federal or state law which prohibits discrimination, nor supersede any state or local law which provides greater family or medical leave protection. Nor does it affect an employer’s obligation to provide greater leave rights under a collective bargaining agreement or employment benefit plan. The FMLA also encourages employers to provide more generous leave rights.

ADMINISTRATIVE LEAVE

Under special circumstances, an employee may be placed on administrative leave pending the outcome of an internal or external investigation or upon notice of separation from employment with the City. The leave will be paid, depending on the circumstances, as determined by the City Council.

REGULAR LEAVE WITHOUT PAY

The City Administrator may grant any regular full-time employee a leave of absence without pay for a period not exceeding 30 days. Personal leaves of absences may be extended by the City Administrator but cannot exceed 90 days. A request for a leave of absence without pay for any period shall be submitted in writing to the City Administrator for approval. A request for more than 90 days must be made through the City Council.

BENEFITS DURING REGULAR LEAVE WITHOUT PAY

No PTO benefits shall accrue during a regular leave of absence without pay. The City benefit contribution shall be continued during an approved leave of absence for up to 90 days. Employees on a leave without pay will be responsible for payment of any voluntary benefit premiums or deductions while on leave. Employees may use reduced hours of PTO (ex. 10-20

hours per week) in conjunction with an approved regular leave without pay to ensure that they receive earned pay or to make payments for voluntary benefit premiums or deductions.

If an employee is on a regular leave without pay and is not working any hours or using accrued PTO, the employee will not accrue (or be paid for) holidays or PTO. Employees who are working reduced hours or using reduced PTO while on this type of leave will receive holiday pay on a prorated basis and will accrue PTO based on actual hours worked.

Leave without pay hours will not count toward seniority and all accrued compensatory time must normally be used before an unpaid leave of absence will be approved.

Leave without pay for purposes other than medical leave or work-related injuries will be at the convenience of the City.

Employees returning from a leave without pay for a reason other than a qualified Parenting Leave will be guaranteed return to the original position only for absences of thirty (30) calendar days or less unless the City otherwise terminates the employee's position of employment during the leave of absence.

Employees receiving leave without pay in excess of thirty (30) calendar days for reasons other than provided for via state or federal law, are not guaranteed return to their original position. If their original position or a position of similar or less status is available, it may be offered at the discretion of the City Administrator, subject to approval of the City Council. The City reserves the right to lawfully terminate any positions of employment as all employees whether or not on a paid or unpaid leave of absence remain at-will employees.

OTHER TYPES OF LEAVE

MINNESOTA PREGNANCY AND PARENTAL LEAVE LAW

In accordance with MINN. STAT. § 181.941, employees who work twenty (20) hours or more per week and have been employed more than one year are entitled to take an unpaid leave of absence in conformance with this Section 10. Female employees for prenatal care, or incapacity due to pregnancy, childbirth, or related health conditions as well as biological or adoptive parents in conjunction with or after the birth or adoption of a child are eligible for up to 12 weeks of unpaid leave and must begin the leave within twelve (12) months of the birth or adoption of the child. In the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital. Employees should provide reasonable notice which is at least 10 business days. If the leave must be taken in less than 10 business days, the employee should give as much notice as possible. A request for leave for Parenting Leave shall be submitted in writing to the City Administrator for

approval. Employees are not required to use PTO during Parenting Leave but may use PTO at their option for any period of this leave.

REASONABLE ACCOMODATIONS TO AN EMPLOYEE FOR HEALTH CONDITIONS RELATING TO PREGNANCY

The City will provide reasonable accommodations to an employee for health conditions related to pregnancy or childbirth if the employee requests, with the advice of her licensed health care provider or certified doula, unless to do so would impose an undue hardship on the City. A pregnant employee may request the following accommodations without the advice of her licensed health care provider or doula:

- more frequent restroom, food, and water breaks
- seating
- limits on lifting over 20 pounds
- temporary transfer to a less strenuous or hazardous position, should one be available

The City and the employee shall engage in the interactive process with respect to an employee's request for reasonable accommodation.

REASONABLE UNPAID WORK TIME FOR NURSING MOTHERS

Nursing mothers will be provided reasonable unpaid break time for nursing mothers to express milk for nursing her child for one year after the child's birth. The city will provide a room (other than a bathroom) as close as possible to the employee's work area, that is shielded from view and free from intrusion from coworkers and the public and includes access to an electrical outlet, where the nursing mother can express milk in private.

MILITARY LEAVE

State and federal laws provide protections and benefits to City employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training on active service not exceeding a total of 15 days in any calendar year.

The leave of absence is only in the event the employee returns to employment with the City as required upon being relieved from service or is prevented from returning by physical or mental disability of other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. Employees on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five years.

Where possible, notice is to be provided to the City at least ten (10) working days in advance of the requested leave. If an employee has not yet used his/her fifteen (15) days of paid leave

when called to active duty, any unused paid time will be allowed for the active duty time, prior to the unpaid leave of absence.

Employees returning from military service will be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of vacation leave and sick leave accruals.

Eligibility for continuation of insurance coverage for employees on military leave beyond fifteen (15) days will follow the same procedures as for any employee on an unpaid leave of absence.

Pursuant to Minnesota law, employees may attend the following kinds of events relating to the military service of the employee's spouse, parent, or child and to which the employee is invited or otherwise called upon to attend by proper military authorities:

- Departure or return ceremonies for deploying or returning military personnel or units;
- Family training or readiness events sponsored or conducted by the military; and
- Events held as part of official military reintegration programs.

The employee must provide reasonable notice to the City when requesting time off and the City will provide a reasonable amount of nonpaid time off for the employee, for the purposes enumerated in items (i) to (iii) above, not to exceed two consecutive days or six days in a calendar year. The City will not compel the employee to use accumulated but unused PTO for these events.

The City will grant up to ten working days of a leave of absence without pay to an employee whose immediate family member, as a member of the United States armed forces, has been injured or killed while engaged in active service pursuant to Minn. Stat. § 181.947.

The length of leave provided under this policy may be reduced by any period of paid leave provided by the City. Nothing in this section prevents an employer from providing leave benefits in addition to those provided in this section or otherwise affects an employee's rights with respect to other employment benefits.

The City provides military leaves of absence to employees who serve in the Uniform Services as required by the Uniform Services Employment and Re-Employment Rights Act of 1994 and applicable state laws. Leave is available for active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, for examinations to determine fitness for any such duty, and for any other leave permitted by law. Total military leave time taken may not exceed five years during employment, except in certain specific circumstances or as otherwise provided by law.

Advance notice of leave is preferred in writing. Please inform the City Administrator of anticipated military leave time as far in advance as possible. Accrued PTO will be paid during military leave at your request and health plan coverage continuation can be arranged for up to 24 months during military leave if you pay the required premium payments. As with other leaves of absence, failure to return to work or to reapply within applicable time limits may result in loss of re-employment rights.

JURY DUTY

Regular full-time employees will be granted paid leaves of absence for required jury duty. Such employees will be required to turn over any compensation they received for jury duty, minus mileage reimbursement, to the City in order to receive their regular wages for the period. Time spent on jury duty will not be counted as time worked in computing overtime.

Employees excused or released from jury duty during their regular working hours will report to their regular work duties as soon as reasonably possible or will take accrued vacation or compensatory time to make up the difference.

Employees are required to notify their supervisor as soon as possible after receiving notice to report for jury duty. The employee will be responsible for ensuring that a report of time spent on jury duty and pay form is completed by the Clerk of Court so the City will be able to determine the amount of compensation due for the period involved.

Part-time, temporary and seasonal employees are generally not eligible for compensation for absences due to jury duty, but can take a leave without pay subject to supervisor approval. However, if a part-time, temporary, or seasonal employee is classified as exempt, he/she will receive compensation for the jury duty time.

COURT APPEARANCES

Employees will be paid their regular wage to testify in court for City-related business. Any compensation received for court appearances arising out of or in connection with City employment, minus mileage reimbursement, must be turned over to the City.

VICTIM OR WITNESS LEAVE

Employees may take time off as reasonable to attend to criminal proceedings in connection with violent crimes of which they, their spouse or their next of kin are the victim.

An employee who is absent from the workplace shall give 48 hours' advance notice to the employer, unless impracticable or an emergency prevents the employee from doing so. Upon request of the employer, the employee shall provide verification that supports the employee's reason for being absent from the workplace. All information related to the employee's leave

pursuant to this section shall be kept confidential by the City in accordance with the Minnesota Government Data Practices Act.

SCHOOL CONFERENCES AND ACTIVITY LEAVE

Employees who have worked at least twelve (12) consecutive months preceding the request and who averaged at least half-time status during that period may take up to 16 hours of unpaid leave during any twelve (12) month period to attend school conferences or classroom activities relating to the employee's child (under 18 or under 20 and still attending secondary school). Such conferences or classroom activities must be scheduled during non-work hours, however, if possible; and prior notice must be given if the need for the leave is foreseeable. An employee may substitute accrued PTO leave or accrued compensatory time off for the leave provided for in this section.

BONE MARROW/ORGAN DONATION LEAVE

Employees working an average of 20 or more hours per week may take paid leave, not to exceed 40 hours unless agreed to by the City, to undergo medical procedures to donate bone marrow or an organ. The City may require a physician's verification of the purpose and length of the leave requested to donate bone marrow or an organ.

BEREAVEMENT/FUNERAL LEAVE

All full-time employees will be granted, if requested, up to three full days of paid funeral leave for the death in the employee's immediate family. All part-time regular employees will be granted the equivalent of three pro-rated days of paid funeral leave, if requested.

Immediate family is defined as: husband, wife, children, parents, grandparents, grandchildren, sisters, brothers, and the above listed relatives with the in-law or step relation.

For non-immediate related family members, full-time employees may request up to one day of funeral leave. Part-time employees may request up to one pro-rated day of funeral leave.

For non-related persons, or if additional time is requested, full-time and part-time regular employees may use accrued PTO.

Employees should inform their supervisor if they are using bereavement leave, who should in turn inform human resources and payroll.

PAID PARENTAL LEAVE

Introduction: In recognition of the importance of family and work life integration, it is the policy of the City of Waconia to provide paid and unpaid parental leave benefits to benefit

earning employees due to the birth of an employee's child or the placement within an employee's home of an adopted child.

Policy: The City of Waconia will provide 80 hours of Paid Parental Leave to eligible employees due to the birth of an employee's child, an adoption of an employee's child, or is the spouse of a birthing or adoptive parent. This includes 100% of the employee's base wage (does not include overtime, supplemental pay, and/or additional pay) for regularly scheduled work hours.

Employee and employer benefit contributions and leave accruals continue during this leave.

Eligibility: To be eligible for leave under this policy, an employee must meet the following criteria:

- Be a biological parent, adoptive parent, or spouse of a biological or adoptive parent
- Be employed by the City for at least six months.
- Has worked at least 20 hours per week for a minimum of one year. Part-time employees receive pro-rated Paid Parental Leave based on their budgeted full-time-equivalent (FTE).
- Be in good standing and meet the qualifications of an employee as defined in the personnel manual.

Surrogate mothers and sperm or egg donors are excluded from coverage under this policy. If both parents are eligible employees, each will be able to utilize Paid Parental Leave according to the provisions of this policy. Paid Parental Leave is not available for foster care placement.

Allocation of Leave: Regular full-time employees will receive the allocation of Paid Parental Leave per birth or adoption. Regular part-time employees will receive pro-rated Paid Parental Leave based on their budgeted FTE at the time of the birth or adoption. The allocation of time must be used within the first three months of the date of birth or placement for adoption. Paid Parental Leave will not reduce eligibility for other times of paid and unpaid leaves such as FMLA. Employees are welcome to use accrued PTO to extend the leave.

Additional Information: The amount of Paid Parental Leave does not increase due to the birth/adoption of multiples, such as twins or triplets. Medical conditions and other circumstances will not increase the length of paid leave granted. There is not a limit to the number of times an employee can use Paid Parental Leave.

SEPARATION FROM EMPLOYMENT

LAY-OFFS

Unless circumstances provide otherwise, after at least two weeks' notice to the employee, the Council may lay-off any employee whenever such action is necessary because of shortage of

work or funds, the abolition of a position, or changes in organization. No regular employee, or employee in the training period, shall be laid off while there is a temporary employee serving in the same class of position for which the regular or training employee is qualified, eligible, and available.

RESIGNATION

Employees wishing to leave municipal service in good standing shall file with his/her supervisor, at least 14 days before leaving, a written resignation stating the effective date of the resignation. Failure to comply with this procedure may be considered cause for denying the employee future employment by the City and denying ~~terminal~~ benefits upon termination of employment. Unauthorized absence from work for a period of three (3) scheduled working days may be considered by the City Administrator as a resignation considered not in good standing.

The employee of the City officially separates his/her employment on the last day of work. The employee's accrued leave benefits shall be calculated as of the last day of work and in accordance with the City paid leave policies. Prior to leaving the City, the employee should verify with the City a correct address is on file. The City Administrator has the authority to grant paid administrative leave, where an employee's final day would be upon resignation notice.

All City property in the personal possession of the employee (i.e. keys, uniforms, cell phones, and original files, etc.) must be turned in to the employees' supervisor before receiving a final paycheck unless state law provides otherwise. All separating employees will be offered the opportunity of an exit interview.

EMPLOYEE REFERENCE CHECKS

The office of the City Administrator will respond to all written reference check inquiries on previous and current employees in accordance with the Minnesota Government Data Practices Act. Responses to such inquiries will confirm public data including dates of employment, wage rates, and position(s) held (if a previous employee).

The City's policy is not to furnish information concerning the employee's work performance, reason for leaving, or any other information regarding employment with the City of Waconia other than the information specified above unless an individual makes a Data Practices Act request in which case the City will provide a response in accordance with the Minnesota Government Data Practices Act, specifically Minn. Stat. § 13.43.

SECTION 5: COMPENSATION

PAY STEP PROGRAM

All City employees are compensated according to the Pay Step scale as approved by the City Council as part of the annual budget process. All employees' job titles and comparable work points have been evaluated and scored by a third party based on the employee's job description.. Each pay grade has a minimum and maximum amount of compensation based on the evaluation points assigned to each position. The compensation of each class title is analyzed each year in an internal compensation study to ensure that employees are being paid at a comparable rate compared to peer cities. The City also strives to complete a full compensation study every five to seven years with an external consultant.

An employee may reach the maximum class title pay level in ten (10) years upon successful review of employee performance and supervisor recommendation. Pay-Step increases are implemented at 3% increment levels, based on merit and performance as determined via the annual performance evaluation. These pay-step level increases take effect on January 1 of each year. Employees should be aware that the City Council reserves the right to freeze the advancement to the next pay step for all employees based on budgetary constraints.

EMPLOYEE PERFORMANCE EVALUATION

An objective performance evaluation system has been established by the City for the purpose of periodically evaluating the performance of City employees. The quality of the employee's past performance will be considered in personnel decisions such as promotions, transfers, demotions, terminations, and where applicable, salary adjustments.

Performance evaluations will be discussed with the employee. Employees do not have the right to change or grieve their performance review, but may submit a written response which will be attached to their performance evaluation.

Performance evaluations are to be scheduled on a regular basis, prior to the employee's anniversary date of hire. The form, with all required signatures, will be retained as part of the employee's personnel file. Supervisors should conduct informal update sessions with employees at least quarterly to discuss progress and development goals established during the annual review.

During the introductory period, formal performance meetings should occur at 30, 90, and 180 days from the date of hire between the supervisor and employee. Upon the successful completion of the first six months of employment and performance review an employee's status will be changed to regular. The changing of the characterization of employment to "regular" status does not alter the at-will nature of the employment relationship. All employees at the time of hire after being declared a "regular" employee remain employed at-will meaning that either the City or the employee may terminate the employment relationship at any time, with or without advance notice.

Signing of the performance review document by the employee acknowledges that the review has been discussed with the supervisor and does not necessarily constitute agreement. Failure to sign the document by the employee will not delay processing.

TIMECARD REPORTING

Full-time, non-exempt employees are expected to work 40 hours per workweek and will be paid according to the time reported on their time sheets. To comply with the provisions of the federal and state Fair Labor Standards Acts, hours worked and any leave time used by non-exempt employees are to be recorded daily and submitted to payroll on a weekly basis electronically via Business Portal. Submission of time sheets are due on the Monday following the end of a pay period by 12 p.m. Time sheets that are submitted late more than once will be processed on the next payroll. On the first late submission employees will receive a notice of this policy and that any future late submissions will result in delayed processing of their pay. In the event an employee wishes to use paid leave time but does not have a sufficient balance, they will not be allowed to borrow against future accruals. Each time report form must include the electronic signature of the employee and immediate supervisor. Supervisors are also responsible for monitoring the proper usage and coding of leave time. Part time staff will submit time recording to their supervisor via the appropriate means determined by their supervisor for entry into Business Portal. Intentionally reporting false information on a time sheet may be cause for immediate termination.

DIRECT DEPOSIT FOR PAYCHECKS

Paychecks are issued every two weeks. As provided in Minnesota law, all employees are required to participate in direct deposit for payroll and other reimbursements. Employees are responsible for notifying the Assistant City Administrator of any change in status, including changes in address, phone number, names of beneficiaries, marital status, etc. Bank accounts for direct deposit must be in the employee's name.

IMPROPER DEDUCTION AND OVERPAYMENT

If an employee believes that an improper deduction or overpayment, or another type of error, has been made, he/she should immediately contact his/her supervisor. If the City determines it has made an improper deduction from a paycheck, it will reimburse the employee for the improper amount deducted and take good faith measures to prevent improper deductions from being made in the future.

In cases of improper overpayments, employees are required to promptly repay the City in the amount of the overpayment. The City will typically issue a reduction in pay from the employee's check. The city will not reduce an employee's pay without written authorization by the employee. Once the overpayment has been recovered in full, the employee's year to date

earnings and taxes will be adjusted (so that the year's Form W-2 is correct) and the paying department will receive the corresponding credit. When an overpayment occurs, the repayment must be made within the same tax year.

In the exceptional situation where the overpayment occurs in one tax year and is not discovered until the next year, the overpayment must be repaid in the year it is discovered, but there will be additional steps and paperwork required. Any overpayments not repaid in full within the calendar year of the overpayment are considered "prior year overpayments" and the employee must repay not only for the net amount of the overpayment, but also the federal and state taxes the City has paid on their behalf. The city can recover the overpaid Social Security and Medicare taxes. Accordingly, the city will not require the employee to repay those taxes provided the employee provides a written statement that he/she will not request a refund of the taxes. The overpayment amount will remain taxable in the year of the overpayment since the employee had access to the funds. The employee is not entitled to file an amended tax return for the year but may be entitled to a deduction or credit with respect to the repayment in the year of repayment. Employees should contact their tax advisors for additional information.

OVERTIME/COMPENSATORY TIME

The City of Waconia has established this overtime policy to comply with applicable state and federal laws governing accrual and use of overtime. The office of the City Administrator will determine whether each employee is designated as "exempt" or "non-exempt" from earning overtime in accordance with the standards set forth by the Fair Labor Standards Act. In general, employees in executive, administrative, professional, computer, or outside sales job classes are exempt; all others are non-exempt.

NON-EXEMPT (OVERTIME-ELIGIBLE) EMPLOYEES

Non-exempt employees shall be compensated for overtime at 1-1/2 times the regular rate of pay for actual hours worked that exceed 40 during a given work week. Used paid time off and compensatory time do not count toward an employee's actual hours worked total.

To the extent permitted by law, compensatory time off shall be accrued and/or taken as approved by the Department Head. Non-exempt employees who work more than 40 hours per week without prior supervisor approval may be subject to disciplinary action. Compensatory time will be accrued into an employee's compensatory bank to a maximum amount of 80 hours. Compensatory time accrued over 80 hours will be subject to overtime pay until the compensatory time bank total falls below 80 hours.

Compensatory time will be accrued through the last day of pay period 25 of each year. Accrued, unused compensatory time will be paid out during the 26 pay period of each year. Hours

worked over 40 during Pay Period 26 through the end of Pay Period 1 of each year will be paid as overtime; no compensatory time shall be earned during these pay periods. Compensatory time earned will start in Pay Period 2 of each year.

EXEMPT (NON-OVERTIME-ELIGIBLE) EMPLOYEES

Exempt employees are expected to work the hours necessary to meet the performance expectations outlined by their supervisors. Generally, to meet these expectations, and for reasons of public accountability, an exempt employee will need to work 40 or more hours per week. Exempt employees do not receive extra pay for the hours worked over 40 in one workweek.

Exempt employees are paid on a salary basis. This means that they receive a predetermined amount of pay each pay period and are not paid by the hour. Their pay does not vary based on the quality or quantity of work performed and they receive their full bi-weekly salary for any pay period in which work is performed.

The City of Waconia will only make deductions from the bi-weekly salary of an exempt employee in the following situations:

- The employee is in a position that does not earn paid time off and is absent for a day or more for any reason that has been approved by their supervisor;
- The employee is in a position that earns paid time off, receives a short term disability benefit or workers' compensation wage loss benefits and is absent for a full day due to sickness or disability, but he/she is either not yet qualified to use the paid time off or he/she has exhausted all of his/her paid time off.
- The employee is absent for a full workweek and, for whatever reason, the absence is not charged to paid time off (for example, a situation where the employee has exhausted all of his/her paid leave or a situation where the employee does not earn paid time off).
- The very first workweek or the very last workweek of employment with the City in which the employee does not work a full week. In this case, the City will prorate the employee's salary based on the time actually worked.
- The employee is in a position that earns paid leave and is absent for a partial day due to personal reasons, illness or injury, but:
 - Paid time off has not been requested or has been denied;
 - Paid time off is exhausted;
 - The employee has specifically requested unpaid leave.

- The employee is suspended without pay for a full day or more for disciplinary reasons for violations of any written policy that is applied to all employees.
- The City of Waconia may, for budgetary reasons, implement a voluntary or involuntary unpaid leave program and, under this program, make deductions from the weekly salary of an exempt employee.

If the City inadvertently makes an improper deduction or deposit to the weekly salary of an exempt employee, the City will collect or reimburse the employee and make appropriate changes to comply in the future. The City will not make any employee deductions with violate federal or state law including, but not limited to Minn. Stat. § 181.79.

All employees, in all departments, are required to work overtime as requested by their supervisors as a condition of continued employment. Refusal to work overtime may result in disciplinary action. Supervisors will make reasonable efforts to balance the personal needs of their employees when assigning overtime work.

CALL BACK PAY

Regular, full-time, non-exempt employees called back to work following the completion of the regular working day or on a scheduled day-off will receive a minimum of 1 hour pay. Call backs must be approved by the employee's supervisor. Call back pay is intended to compensate employees for emergencies and unforeseen circumstances. Reporting early for a shift, shift extensions, or schedule changes do not qualify for call-back pay.

WORKERS' COMPENSATION

All employees are required to report any job-related illnesses or injuries to their supervisor immediately (no matter how minor). If a supervisor is not available, you should report the injury to the closest available supervisor or manager. If the nature of the injury or illness requires immediate treatment, the employee is to go to the nearest available medical facility for treatment and, as soon as possible, notify his/her supervisor of the action taken. In the case of a serious emergency, 911 should be called.

If the injury is not of an emergency nature, but requires medical attention, the employee will report it to the supervisor and make arrangements for a medical appointment.

Within 48 hours of a job-related illness or injury, a first report of injury report must be completed and filed with the City Administrators office, along with the Supervisor's Report.

Workers' Compensation Payments for all covered employees shall be remitted by the Workers' Compensation carrier directly to the employee. e. Worker's Compensation pay's 60% of an employee's regular wages, which are considered not taxable. The employee's benefits will

remain active while receiving worker's compensation with appropriate deductions for the duration of the worker's compensation leave occurring on the first pay period back, and if necessary, subsequent pay periods. Employees do not accrue PTO or earn holiday pay while on a worker's compensation leave.

LIGHT DUTY/MODIFIED DUTY ASSIGNMENT

This policy is to establish guidelines for temporary assignment of work to temporarily disabled employees who are unable to perform their regular work duties. Light duty is evaluated by the office of the City Administrator and the employee's supervisor on a case-by-case basis. This policy does not guarantee assignment to light duty.

Such assignments are for short-term, temporary disability-type purposes; assignment of light duty is at the discretion of the office of the City Administrator and employee's supervisor, and the City reserves the right to determine when and if light duty work will be assigned.

When an employee is unable to perform the essential requirements of his/her job due to a temporary disability, he/she will notify the supervisor in writing as to the nature and extent of the disability and the reason why he/she is unable to perform the essential functions, duties, and requirements of the position. This notice must be accompanied by a physician's report containing a diagnosis, current treatment, and any work restrictions related to the temporary disability. The notice must include the expected time frame regarding return to work with no restrictions, meeting all essential requirements and functions of the City's job description along with a written request for light duty. Upon receipt of the written request, the supervisor is to forward a copy of the report to the office of the City Administrator.

The City may require a medical exam conducted by a physician selected by the City to verify the diagnosis, current treatment, expected length of temporary disability, and work restrictions.

It is at the discretion of the City Administrator whether or not to assign light duty work to the employee. Although this policy is handled on a case-by-case basis, light duty will not generally be approved beyond six (6) months.

If the City offers a light duty assignment to any employee who is out on workers' compensation leave, the employee may be subject to penalties if he/she refuses such work, unless the employee is otherwise protected by other state or federal law.

The circumstances of each disabled employee performing light duty work will be reviewed regularly. Any light duty/modified work assignment may be discontinued at any time.

The City, in administering this policy, will fully comply with the Minnesota Human Rights Act, the Americans with Disabilities Act, the Americans with Disabilities Amendments Act, and any other applicable state and federal law.

SECTION 6: EMPLOYEE BENEFITS

GENERAL INFORMATION

For detailed information about coverage and eligibility requirements, employees should refer to the summary plan description or contact the office of the City Administrator. Employees classified as working in a regular full-time position will be eligible to earn benefits unless otherwise provided for by state or federal law. Each year, the City looks at the health insurance renewal and determines a dollar amount for health insurance City contributions.

ELIGIBILITY

Full time employees are eligible to participate in the City's benefits program on their date of hire, or following a change in status in accordance with federal and state law or the benefit plan document. The amount to be contributed and the type of coverage will be determined annually by the City Council.

CITY BENEFITS

PUBLIC EMPLOYEES RETIREMENT ASSOCIATION (PERA)

All regular employees and some part-time employees participate in a retirement plan offered through the Public Employees Retirement Association (PERA). This benefit is funded through a combination of City contributions and employee contributions deducted through payroll. PERA is a defined benefit plan. Upon retirement, benefits are paid as equal monthly payments for the employee's lifetime with annual adjustments. An employee's individual monthly benefit depends on age at retirement, average "high-five" salary, and years of credited service.

The City participates in two PERA plans, the Coordinated Plan and the Police and Fire Plan. Plan participation is determined by the position an employee holds within the City. The Coordinated Plan covers the majority of City employees. The Police and Fire Plan is only available to any full-time firefighters we have on staff.

An employee who ends his or her career in public service and remains out of public employment for more than 30-days can receive a refund of his or her contributions with interest.

HEALTH INSURANCE

Upon proper application, all regular full-time employees may elect to be covered by the City's medical insurance plan(s). Medical insurance will be offered for the employee and spouse or dependents. Any portion of the premium that is not covered by the City's monthly contribution will be taken from the employee on a pre-tax basis. In addition to medical insurance plan(s), the

City offers a Health Savings Account. Both the City and employee can make deposits into the account on behalf of the employee on a pre-tax basis.

DENTAL INSURANCE

Upon proper application, all regular, full-time employees may elect to be covered by the City's dental insurance plan. Dental insurance will be offered for the employee, spouse, and any dependents. Any portion of the premium that is not covered in the City's monthly contribution will be taken from the employee's pay on a pre-tax basis.

DEPENDENT CARE FLEXIBLE SPENDING ACCOUNT

Full time employees may allocate funds to be used for reimbursement for costs associated with dependent care in order for the employee to work. The annual dependent care limit is set by the IRS each year.

If an employee allocates funds for dependent care costs, they must be uncured by December 31st of that year to be eligible for reimbursement. If funds the employee has established for the year are not used, any remaining amount in those allocations will be forfeited. Claims for costs incurred by December 31st may be submitted until May 31st of the following year. Forfeited funds will be allocated to the general fund and will be allocated toward the next year's City contribution amount for benefits.

LIFE INSURANCE OPTIONS

Upon proper application, all regular, full-time employees may elected to be covered by the City's life insurance plan(s). Any portion of the premium not covered by the City's contribution will be taken from the employee's pay on a pre-tax basis.

DEFERRED COMPENSATION

Employees may elect to voluntarily contribute to a deferred compensation 457 plan sponsored by the City. These contributions are made through payroll deduction and are made on a pre-tax basis.

SUPPLEMENTAL INSURANCE BENEFITS

Employees may elect to participate in supplemental benefits as provided by the designated provider sponsored by the City. These contributions are made through payroll deduction.

COMMUNITY CENTER MEMBERSHIP

All City employees and firefighters shall be eligible to receive an adult membership to Safari Island at no charge. Should these employees elect to purchase a family membership, the cost of the individual adult membership shall be deducted from the family membership fee.

CONTINUATION COVERAGE

The Consolidated Omnibus Budget Reconciliation Act (**COBRA**) gives workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan for limited periods of time under certain circumstances. Employees must provide notification to the office of the City Administrator when a qualifying event occurs, other than termination of employment.

ADMINISTRATIVE FEES

Administrative fees allocable to the individual accounts of former employees, including retirees, shall be paid from individual accounts. Administrative fees shall be paid from individual accounts of all participants in the event any benefit plans are cancelled by the City.

BENEFITS UPON TERMINATION OF EMPLOYMENT

If an employee leaves employment after the first, but before the last day of the month, their benefits will be effective through the entire month.

PAID TIME OFF & EARNED SICK & SAFE LEAVE

All eligible employees will accrue Paid Time Off (PTO) based on years of service with the City of Waconia. PTO replaces the more traditional sick and vacation policies to allow employees flexibility in planning their leave time.

The City of Waconia's PTO program exceeds the requirements of the State of Minnesota's Earned Sick & Safe Time (ESST) law required under state statute, both in terms of accrual amounts and authorized uses. Use of PTO leave can be used for:

- Vacation or time away from work; or

Any ESST Qualifying Reasons:

1. An employee's mental or physical illness or other health condition, including treatment, diagnosis, or preventative care;
2. To care for a family member* with a health condition. Including care, treatment, diagnosis, or preventive care;
3. Absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member;
4. Closure of the employee's place of business or to care for a family member whose school or place of business is closed due to weather or other public emergency;
5. The employee's inability to telework due to health concerns or possibly jeopardizing the health of others relating to potential transmission of communicable illness related to a public emergency;
6. Any other reason allowable by state statute in the ESST law.

*family member defined by ESST law

PTO ACCRUALS FOR REGULAR EMPLOYEES

Every regular full-time employee shall earn PTO on a per-pay-period basis, as follows, unless otherwise negotiated at the time of hire. The scale for earning PTO is as follows:

For regular, full-time employees hired on or after June 1, 2016

<i>Years of Service</i>	Total Days	Annual Hours	Monthly Hours	Per Pay-Period
<i>1-5 Years</i>	18 days	144 hours	12 hours	5.54 hours
<i>6-10 Years</i>	22.5 days	180 hours	15 hours	6.93 hours
<i>11-15 Years</i>	25.63 days	205 hours	17.1 hours	7.89 hours
<i>16-20 Years</i>	28.75 days	230 hours	19.17 hours	8.85 hours
<i>21+ years</i>	32.5 days	260 hours	21.67 hours	10 hours

ACCRUAL

PTO hours will be accrued to the employees PTO bank on a per-pay-period basis. Hours worked in excess of 40 per week will not count in any accrual of PTO but will be subject to the City Compensatory Time/Overtime Policy for applicable employees. An employee may accrue up to 480 hours of PTO into their bank. Accrued but unused PTO beyond 480 hours will be lost. Banked PTO hours can be carried over year to year as long as the total banked hours do not exceed 480. Transition to the next step of accrual rate, based on years of service, will occur on the employee's anniversary date of hire.

ACCRUAL DURING LEAVE

For the purpose of accumulating PTO, an employee using banked PTO, Comp Time, or receiving Holiday pay is considered to be working. Accrual of PTO will not occur during unpaid leaves of absence.

PTO REQUESTS & APPROVALS

PTO may be used for any purpose as earned, and subject to approval by the employees' supervisor of the time at which it may be taken; and approval by human resources or the City Administrator if more than ten (10) consecutive working days are to be taken. PTO requests should be made at least 14 days prior to the desired leave date. Requests made with less than 14 days' notice will be granted on a first-come, first-serve basis at the discretion of the supervisor. It is at the discretion of the supervisor to determine and ensure adequate staffing levels for each department and division.

Emergency use of PTO (illness or injury) requires notification to the employee's supervisor a minimum of 30 minutes prior to the employee's scheduled workday. Excessive emergency use or use for an ongoing medical issue over three days, may require documentation of the emergency or medical condition such as a physician's note.

It is against the law for an employer to retaliate, or take negative action, against an employee for using or requesting time related to sick and safety. If an employee believes they have been retaliated against or improperly denied earned sick and safe time, please contact human resources.

DONATION OF PTO OR EXTENDED SICK LEAVE HOURS TO EMPLOYEES WITH SERIOUS MEDICAL PROBLEMS

Employees may voluntarily donate PTO in hourly increments, which can be converted to use by employees facing serious medical problems or extended time off due to serious medical problems and who have no accumulated PTO or Extended Sick Leave available. The use of this donated PTO leave must be approved by the supervisor and the City Administrator and will be converted to the receiving employee's paid hourly rate. The donated PTO will not remain in the balance of the receiver and is to be approved and used on a per instance basis for the serious medical issue. This subdivision does not include temporary or seasonal positions.

PTO CASH OUT

Any employee who has used at least 80 hours of PTO in the previous year may request to have up to 40 hours of PTO converted into a cash payment minus the customary and appropriate withholdings once per calendar year provided they have a minimum of 120 hours of banked PTO hours available at the time of the request. This can be done once per year. Employees have two options for this:

PTO CASH OUT OPTION 1

In December of each year, employees who have met the above criteria, are able to make an irrevocable request for a PTO payout for hours not-yet-accrued in the following year. For most employees, this will mean a payout cannot happen until at least March of the following year, as the hours they are requesting payout for must be accrued in the New Year before they can be paid out. Employees will fill out the PTO Cash Out Request Form and submit it to Finance, specifying the number of hours they would like paid out and the specific check in which they would like it paid out. *Please note, employees are still eligible to take already accrued PTO hours during the time between their cash out request and the cash out.*

PTO CASH OUT OPTION 2

Employees who do not wish to go with Option 1 and who meet the above criteria, are eligible at any time to request a PTO Cash Out of up to 40-hours into their Deferred Compensation Account through Nationwide. Employees who want this request will need to fill out a form identifying the number of hours they would like cashed out, and the date they would like it cashed out into their account. This option can be done at any time during the year, as long as the employee meets the established criteria.

PTO CASH OUT UPON TERMINATION

Any employee voluntarily leaving municipal service with the City after having given at least 14 days' notice of such termination of employment shall be compensated at their current regular rate of pay for paid time off that is banked to the date of separation. Any employee who is laid off from employment with the City under good standing shall also be compensated for such banked paid time off. PTO in the month of separation will be pro-rated based on the date of employment separation from the 1st of the month, if applicable.

APPLICABILITY TO LEAVE BENEFITS

An employee may use up to 40 hours of accrued PTO leave during the first six (6) months of employment. Anything more than 40 hours in the first six months of employment is at the supervisor's discretion.

PAY-OUT OF PTO TO BENEFICIARY

In the event of death of an employee, accrued paid time off benefits shall be paid to the beneficiary on file. Absent a beneficiary form, benefits shall be paid according to PERA beneficiary; if none, to next of kin.

EARNED SICK & SAFE FOR NON-REGULAR EMPLOYEES

In accordance with state statute, City of Waconia non-regular and variable hour employees who do not qualify for PTO benefits and who work at least 80 hours in a calendar year are eligible to earn sick and safe leave in accordance with the following provisions:

Eligible non-regular employees will earn 1-hour of sick and safe leave for every 30 hours worked up to a maximum of 48 hours per year. Accrual begins upon hire but cannot be used until employees meet the 80 hours worked threshold. Earned and unused hours at year end will carry over into a new calendar year and the maximum balance shall not exceed 80 hours. Earned and unused hours are not eligible for cash out or conversion to any other form of payment at any time. Employees who are re-hired within 180 days of separation shall have earned and unused sick and safe leave reinstated.

Accrued sick and safe leave can be used in accordance with MN Statute 181.9447 including:

- An employee's mental or physical illness or other health condition, including treatment, diagnosis, or preventative care;
- To care for a family member with a health condition. Including care, treatment, diagnosis, or preventive care;
- Absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member;
- Closure of the employee's place of business or to care for a family member whose school or place of business is closed due to weather or other public emergency;
- The employee's inability to telework due to health concerns or possibly jeopardizing the health of others relating to potential transmission of communicable illness related to a public emergency;
- Any other reason allowable by state statute.

For the purposes of this policy, "family member" is defined by state statute and includes an employee's child, spouse or registered domestic partner, sibling, parent, grandchild, niece/nephew, aunt/uncle, and any family members listed above of the employee's spouse or registered domestic partner. Also included is any individual related by blood or whose close association with the employee is equivalent to a family relationship and up to one individual annually designated by the employee.

Employees who require the use of foreseeable leave in accordance with this policy must provide seven day's advance notice in writing to their supervisor on a form provided by the employer. If need for leave is unforeseeable, employees are required to give notice of the need for leave as soon as practicable in writing to their supervisor on a form provided by the employer. Leaves more than three consecutive days may require reasonable documentation before leave is approved.

Retaliation against employees who assert their rights under this policy is prohibited.

HOLIDAYS

The following calendar days and such other days as the Council may fix are paid holidays. Those holidays designated as legal holidays in the State of Minnesota as set forth in Minn. Stat. § 645.44, Subd. 5. All employees in regular full-time positions are entitled to time off with full pay on holidays. Those holidays, which may be changed by amendment to said state law, are currently designated as being:

New Year's Day	Memorial Day	Labor Day	Friday after Thanksgiving
Martin Luther King's Birthday	Juneteenth	Veteran's Day	Christmas Eve
President's Day	Independence Day	Thanksgiving	Christmas Day

In addition to the holiday's listed above, an 8-hour floating holiday is also available to employees. The floating holiday must be used as an entire day, and within the calendar year.

Employees who start employment November 1 or later will be able to carry their floating holiday into the new year. The carried over floating holiday must be used in the new year before any PTO is used.

The City offices shall be closed for business on each such holiday other than an employee chosen floating holiday, but employees may be required to work on paid holidays when the nature of duties or other conditions require. A regular non-exempt employee required to work on a holiday shall be compensated at the rate of 1-1/2 times the regular rate of pay, consistent with the Overtime/Compensatory Time policy as outline in this Reference manual, in addition to the holiday pay received. If an employee is called into work on their "floating" holiday it will be treated as regular hours and they will choose another day to use their floating holiday. The floating holiday must be taken as an entire day and cannot be broken into increments.

Full-time employees will receive pay for official holidays at their normal straight time rates, provided they are on paid status on the last scheduled day prior to the holiday and first scheduled day immediately after the holiday. Any employee on a leave of absence without pay from the City is not eligible for holiday pay.

When an official holiday falls on a Saturday, the previous day shall be the "observed" holiday. When an official holiday falls on a Sunday, the following day shall be the "observed" holiday. If the observed and actual holiday are different dates, the employee will receive their holiday pay plus 1-1/2 times the regular rate of pay for working on the observed holiday. The employee will receive 1-1/2 times the rate of pay for working on the actual holiday. Each holiday commences at 12:00 a.m. on the holiday and goes until 11:59 p.m. on the holiday. Part-time regular employees receive paid holidays pro-rated based on their hours worked. Temporary part-time and seasonal employees are not entitled to paid holidays. Firefighters will be paid their regular rate of pay if called out to respond to an emergency on a City scheduled official holiday.

Employees wanting to observe holidays other than those officially observed by the City may request either compensatory time or PTO.

EMPLOYEE RECOGNITION PROGRAM

The importance of employee recognition cannot be underestimated. Recognizing employees' length of service acknowledges their commitment and dedication to the City. It effectively communicates to them that their loyalty to the City is valued. The goal of the City's employee recognition program is to increase awareness of employee longevity and to improve satisfaction and productivity of employees.

Each year, the City will host a recognition event honoring our City Employees and the contributions they make to the community. During this event, the City will recognize employees for their continuous years of service, beginning at the employee's five year anniversary and in five-year increments thereafter. For the purpose of this policy all approved leaves of absence will count toward continuous years of service. The recognition awards will be presented in the following manner:

<i>Years of Service</i>	<i>Award</i>
5 years	Certificate
10 years	Framed Certificate and \$20 Waconia Bucks
15 years	Framed Certificate and Recognition at Council Meeting; \$25 Waconia Bucks or Donation to Charity of Employee's Choice
20 years	Framed Certificate and Recognition at Council Meeting; \$50 Waconia Bucks or Donation to Charity of Employee's choice
25 years	Plaque and Proclamation Recognition at Council Meeting; \$75 Waconia Bucks or Donation to Charity of Employee's Choice
30 years	Plaque and Proclamation Recognition at Council Meeting; \$100 Waconia Bucks or Donation to Charity of Employee's Choice
35 years	Plaque and Proclamation Recognition at Council Meeting; \$125 Waconia Bucks or Donation to Charity of Employee's Choice
40 years	Plaque and Proclamation Recognition at Council Meeting; \$150 Waconia Bucks or Donation to Charity of Employee's Choice

EMPLOYEE RETIREMENTS/RESIGNATIONS

Waconia employees are recognized for significant years of service at the time of their retirements/resignation at the following levels:

<i>Years of Service</i>	<i>Award</i>
10 – 19 years	Framed Proclamation from the City Council

20 years and above

Plaque from the City Council and a Community Reception

LEGACY BENEFITS

EXTENDED SICK LEAVE BANK

Eligible City employees, who as of December 20, 2009 have accrued and unused Sick Leave in excess of 400 hours will be allowed to deposit these hours into an Extended Sick Leave bank. Hours deposited to this bank may be used in the event of a serious health condition of their own, or the serious health condition of an individual with whom the employee has a significant personal relationship. An employee may use accrued hours from the Extended Sick Leave Bank after they have used any available accrued PTO, up to 40 consecutive hours, until the bank is exhausted. Accrual to the Extended Sick Leave Bank or transfers of accrued but unused PTO is not permitted.

Upon termination of employment, hours remaining in the Extended Sick Leave Bank will be paid only to qualified employees. For purposes of this policy, qualified employees are full-time employees with at least five full years of continuous service with the City who are considered to be in good standing and give proper notice of separation in the case of resignation or retirement. Qualified employees shall receive 35% of their hours remaining in their Extended Sick Leave Bank, up to 336 hours, as part of their benefits upon termination of employment.

LEGACY PTO ACCRUAL SCALE

The PTO benefit policy replaced previous city policies on vacation and sick leave. The PTO benefit combined these benefits into a single leave plan that allowed more flexibility in how employees use their paid leave benefit. Employees hired prior to June 1, 2016 earn PTO at the following accrual levels.

<i>Years of Service</i>	Total Days	Annual Hours	Monthly Hours	Per Pay-Period
1-5 Years	22.5 days	180 hours	15 hours	6.93 hours
6-15 Years	27 days	216 hours	18 hours	8.31 hours
16-20 Years	31.5 days	252 hours	21 hours	9.69 hours
21+ Years	37.5 days	300 hours	25 hours	11.54 hours

SECTION 7: EMPLOYEE BEHAVIOR & DISCIPLINE

EMPLOYEE CONDUCT

EXPECTATIONS

In accepting City employment, employees become representatives of the City and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of the City of Waconia. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a City employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

The following are job expectations for every position at the City of Waconia. All employees are expected to:

- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.
- Read, understand and comply with the rules and regulations as set forth in this reference manual, City policies, State and Federal laws, and those of their departments.
- Conduct themselves with decorum toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
- Report any and all unsafe conditions to the immediate supervisor or City Safety Coordinator.
- Maintain good attendance.

RESPECTFUL WORKPLACE

The intent of this policy is to provide general guidelines about the conduct that is and is not appropriate in the workplace and other City-sponsored events.

The City acknowledges that this policy cannot possibly predict all situations that might arise, and also recognizes that some employees are exposed to disrespectful behavior by the very nature of their jobs. The City expects that all employees conduct themselves with the utmost level of professionalism during the workday and in their interactions with co-workers and the public at large.

APPLICABILITY

Maintaining a respectful work environment is a shared responsibility. This policy is applicable to all City personnel including regular and temporary employees, volunteers, firefighters, appointed officials, task force members, and City Council members. For the purposes of the

Respectful Workplace Policy, “employees” are meant to reference all classes of City personnel listed here.

ABUSIVE CUSTOMER BEHAVIOR

While the City has a strong commitment to customer service, the City does not expect that employees accept verbal abuse from any customer. An employee may request that a supervisor intervene when a customer is abusive, or they may defuse the situation themselves, including ending the contact.

If there is a concern of the possibility of physical violence, a supervisor should be contacted immediately. When extreme conditions dictate, 911 may be called. Employees should leave the area immediately when violence is imminent unless the safety of co-workers or the public require them to remain. Employees must notify their supervisor about the incident as soon as possible.

TYPES OF DISRESPECTFUL BEHAVIOR

The following types of behaviors cause a disruption in the workplace and are, in many instances, unlawful:

Discriminatory Behavior

Discriminatory behavior includes inappropriate remarks or conduct based upon a person’s race, color, creed, political affiliation, religion, national origin, genetic medical information, disability, sex, pregnancy, gender-biased statements, such as stereotypes about women or men, marital status, age, sexual orientation, gender identity, or gender expression, marital/familial status, age, sexual orientation, or status with regard to public assistance.

Offensive Behavior

Offensive behavior may include such actions such as: rudeness, angry outburst, inappropriate humor, vulgar obscenities, name calling, disrespectful language, rumor mongering and gossip, or any other behavior regarded as offensive to a reasonable person. It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, taking into account the sensibilities of employees and the possibility of public reaction.

Although the standard for how employees treat each other and the general public will be the same throughout the City, there may be differences between work groups about what is appropriate in other circumstances unique to a work group. If an employee is unsure whether a particular behavior is appropriate, the employee should request clarification from their supervisor or the City Administrator.

Sexual Harassment

Sexual harassment can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Sexual harassment includes, but is not limited to, the following:

- **Unwelcome or unwanted sexual advances:** this means stalking, patting, pinching, brushing up against, hugging, cornering, kissing, fondling or any other similar physical contact considered unacceptable by another individual.
- **Verbal or written abuse, kidding, or comments that are sexually-oriented and considered unacceptable by another individual:** this includes comments about an individual's body or appearance where such comments go beyond mere courtesy, telling "dirty jokes" or any other tasteless, sexually oriented comments, innuendos or actions that offend others.
- **Requests or demands for sexual favors:** this includes subtle or obvious expectations, pressures, or requests for any type of sexual favor, along with an implied or specific promise of favorable treatment (or negative consequence) concerning one's current or future job.

Violent Behavior

Violent behavior includes the use of physical force, harassment, bullying, or intimidation.

EMPLOYEE RESPONSE TO DISRESPECTFUL WORKPLACE BEHAVIOR

All employees should feel comfortable calling their supervisor or another manager to request assistance should they not feel comfortable with a situation. If situations involve violent behavior, call the police or ask the individual to leave the area.

If employees see or overhear a violation of this policy, employees should promptly advise their supervisor or the City Administrator.

Employees who believe that disrespectful behavior is occurring or persistent, are encouraged to deal with the situation in one of the ways listed below. However, if allegations involve violent

behavior, sexual harassment, or discriminatory behavior based on a protected class, then the employee is responsible for taking one of the actions below.

Step 1(a)

Professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions. Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.

Step 1(b)

If you fear adverse consequences could result from engaging the offender, or if the matter is not resolved by direct contact, go to your supervisor, department head, or City Administrator. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter no later than ten (10) business days after your report.

In some situations with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with the offender.

Step 1(c)

In the case of violent behavior, sexual harassment, or discriminatory behavior based on a protected class, all employees are required to report the incident immediately to their supervisor or the City Administrator. Any employee who observes sexual harassment, violent or discriminatory behavior, or receives any reliable information about such conduct, must report it immediately to a supervisor or the City Administrator.

Step 2

If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the City Administrator or a member of the Personnel Committee.

SUPERVISOR'S RESPONSE TO ALLEGATIONS OF DISRESPECTFUL WORKPLACE BEHAVIOR

Employees who have a complaint of disrespectful workplace behavior will be taken seriously.

In the case of sexual harassment or discriminatory behavior, a supervisor must report the allegations immediately to the City Administrator, who will determine whether an investigation is warranted. A supervisor must act upon such a report even if requested otherwise by the victim. In situations other than sexual harassment and discriminatory behavior, supervisors will use the following guidelines when an allegation is reported:

Step 1(a)

If the nature of the allegations and the wishes of the victim warrant a simple intervention, the supervisor may choose to handle the matter informally. The supervisor may conduct a coaching session with the offender, explaining the impact of his/her actions and requiring the conduct not to recur. This approach is particularly appropriate when there is some ambiguity about whether the conduct was disrespectful.

Step 1(b)

Supervisors, when talking with the reporting employee will be encouraged to ask him or her what he or she wants to see happen next. When an employee comes forward with a disrespectful workplace complaint, it is important to note the city cannot promise complete confidentiality, due to the need to investigate the issue properly. However, any investigation process will be handled as confidentially as practical and related information will only be shared on a need to know basis and in accordance with the Minnesota Data Practices Act.

Step 2

If a formal investigation is warranted, the supervisor is to immediately inform the office of the City Administrator, who will then be responsible for conducting an investigation. The individual alleging a violation of this policy will be interviewed to discuss the nature of the allegations.

The investigator will obtain the following description of the incident, including date, time, and place.

- Corroborating evidence.
- A list of witnesses.
- Identification of the offender.

The person conducting the investigation must document or summarize the statements using the Disrespectful Workplace Behavior Report Form.

Step 3

As soon as practical after receiving the written or verbal complaint, the alleged policy violator will be informed of the allegations. The alleged violator will have the opportunity to answer questions and respond to the allegations.

Step 4

After adequate investigation and consultation with the appropriate personnel, a decision will be made regarding whether or not disciplinary action will be taken.

Step 5

The alleged violator and complainant will be advised of the findings and conclusions as soon as practicable.

SPECIAL REPORTING REQUIREMENTS

When the supervisor is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the office of the City Administrator who will assume responsibility for investigation and discipline.

If the City Administrator is perceived to be the cause of a disrespectful workplace behavior incident, a report will be made to the City Attorney who will confer with the Personnel Committee of the City Council regarding appropriate investigation and action.

If a Council Member or appointed city official (e.g. commission member) is perceived to be the cause of a disrespectful workplace behavior incident involving City personnel, the report will be made to the City Administrator and referred to the City Attorney who will undertake the necessary investigation. The City Attorney will report his/her findings to the City Council, which will take the action it deems appropriate.

Pending completion of the investigation, the City will take appropriate action to protect the alleged victim, other employees, or citizens.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the City Attorney will be consulted as to the appropriate course of action.

CONFIDENTIALITY

A person reporting or witnessing a violation of this policy cannot be guaranteed anonymity. The person's name and statements may have to be provided to the alleged offender. All complaints and investigative materials will be contained in a file separate from the involved employees' personnel files. If disciplinary action does result from the investigation, the results of the disciplinary action will then become part of the employee(s) personnel file(s) or may become public as permitted by the Minnesota Government Data Practices Act.

RETALITATION

Consistent with the terms of applicable statutes and City personnel policies, the City may discipline any individual who retaliates against any person who reports alleged violations of this policy. The City may also discipline any individual who retaliates against any participant in an

investigation, proceeding or hearing relating to the report of alleged violations. Retaliation includes, but is not limited to, any form of intimidation, reprisal, or harassment.

DISCIPLINARY GUIDELINES

Supervisors are responsible for maintaining compliance with City standards of employee conduct. The objective of this policy is to establish a standard disciplinary process for employees of the City of Waconia. City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable City policies.

It is the policy of the City to administer disciplinary penalties without discrimination. An employee who believes that discipline applied was either unjust or disproportionate to the offense committed may pursue a remedy through the grievance procedures established in the City's personnel policies. The supervisor, department head, and/or City Administrator will investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

This policy is not to be construed as contractual terms and is intended to serve only as a guide for employment discipline. No language in this policy is intended to nor does it alter the at-will nature of employee's employment relationship. The City may terminate the employment relationship at any time with or without cause or advance notice.

PROCESS

Although employment with the City of Waconia is based upon mutual consent, and both the employee and the City have the right to terminate employment at-will, with or without cause or advance notice, the City may use progressive discipline at its discretion. There may be circumstances that warrant deviation from the suggested order or where progressive discipline is not appropriate. Nothing in these policies implies that any City employee has a property right to the job he/she performs.

Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee.

DISCIPLINARY ACTION STEPS FOR ALL EMPLOYEES

The following disciplinary action may be imposed at any time, in any order, and without expiration at the sole discretion of the City:

Oral Reprimand

This measure will be used where informal discussions with the employee's supervisor have not

resolved the matter. All supervisors have the ability to issue oral reprimands without prior approval.

Oral reprimands are normally given for first infractions on minor offenses to clarify expectations and put the employee on notice that the performance or behavior needs to change, and what the change must be. The supervisor will document the oral reprimand including date(s) and a summary of discussion and corrective action required with a summary being placed in the employee's personnel file.

Written Reprimand

A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or the behavior has not consistently improved in a reasonable period of time. Serious infractions may require skipping either the oral or written reprimand, or both.

Written reprimands are issued by the supervisor or department heads. The written reprimand shall state the employee is being warned for misconduct; describe the misconduct; describe past actions taken by the supervisor to correct the problem; urge prompt correction or improvement by the employee; include timetables and goals for improvement when appropriate; and outline future penalties should the problem continue.

The employee shall be given a copy of the reprimand and sign the original acknowledging that he/she has received the reprimand. The signature of the employee does not mean that he/she agrees with the reprimand. Written reprimands shall be placed in the employee's personnel file.

Suspension with or without Pay

The City Administrator may suspend an employee with pay for disciplinary reasons in accordance with the Administrative Leave provisions until a Special Meeting of the City Council can be held. Suspension without pay may be followed with immediate dismissal as deemed appropriate by the City Council, except in the case of veterans. Qualified veterans will be suspended with pay in conjunction with the Veteran's Preference Act.

Prior to the suspension or as soon thereafter as possible, the employee shall be notified in writing of the reason for the suspension and its length. A copy of the letter of suspension will be placed in the employee's personnel file. An employee may be suspended pending an investigation of an allegation involving that employee. The leave may be with or without pay depending on a number of factors, including the nature of the allegations. If the suspension is for investigation and the allegation proves false, the relevant written documents will be removed from the employee's personnel file and the employee shall receive any compensation and benefits to which he/she would have been entitled had the suspension not taken place.

Involuntary Demotion

An employee may be demoted if attempts at resolving an issue have failed, and the Personnel Committee of the City Council determines a demotion to be the best solution subject to the approval of the City Council. The employee must be qualified for the position to which they are being demoted. This step shall be taken only if the employee does not have the ability to function at the higher level.

Forced Transfer to a Comparable Position under a Different Supervisor

An employee may be transferred to a vacant position if the Personnel Committee of the City Council determines a transfer to be the best solution subject to the approval of the City Council. The employee must be qualified for the position to which they are being transferred. This step may be taken only if the problem is due to personal incompatibility between the supervisor and employee.

Withholding a Salary Increase or Decreasing Employee's Salary

An employee's salary increase may be withheld or the salary may be decreased due to performance deficiencies if the Personnel Committee of the City Council determines withholding a salary increase to be the best solution subject to the approval of the City Council. The employee shall be notified in writing of the action and the reasons therefore. A copy of the notice shall be placed in the employee's file. In no case shall an employee's salary be decreased below the minimum of the salary range of the class.

Dismissal

The City Council may dismiss any employee at any time for any reason with or without cause or advance notice. If the disciplinary action involves the dismissal of a qualified veteran, the appropriate hearing notice will be provided and all rights will be afforded the veteran in accordance with Minnesota law.

Hearing

In any case of suspension, dismissal or demotion, all employees shall be granted a hearing before the Council if the employee submits a written request for such hearing within five working days of notification of the action taken. The hearing shall be held within ten working days from the date the request is filed unless the City and the employee agree on an earlier or later date. If the disciplinary action involves the removal of a qualified veteran, the hearing shall be held in accordance with Minnesota law.

GRIEVANCE

GRIEVANCE PROCEDURE

Any dispute between an employee and the City relative to the application, meaning or interpretation of any and all City policies will be settled in the following manner:

Step 1

The employee must present the grievance in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of City policy allegedly violated and the remedy requested to the proper supervisor within twenty-one (21) days after the alleged violation or dispute has occurred. The supervisor will respond to the employee in writing within seven (7) calendar days.

Step 2

If the grievance has not been settled in accordance with Step 1, it must be presented in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of City policy allegedly violated, and the remedy requested, by the employee to the City Administrator within seven (7) days after the supervisor's response is due. The City Administrator or his/her designee will respond to the employee in writing within seven (7) calendar days.

Step 3

If the grievance has not been settled in accordance with Step 1 or 2, it must be presented in writing, stating the nature of the grievance, the facts on which it is based, the provision or provisions of City policy allegedly violated and the remedy requested by the employee to the Personnel Committee of the City Council within seven (7) days after the City Administrator response is due. The Personnel Committee will issue a final decision or make a recommendation to the City Council for action.

WAIVER

If a grievance is not presented within the time limits set forth above, it will be considered "waived". If a grievance is not appealed to the next step in the specified time limit or any agreed extension thereof, it will be considered settled on the basis of the City's last answer. If the City does not answer a grievance or an appeal within the specified time limits, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual agreement of the City and the employee without prejudice to either party.

The following actions are not grievable:

- Performance evaluations;
- Pay increases or lack thereof; and
- Merit pay awards.

The above list is not meant to be all inclusive or exhaustive.

SEXUAL HARASSMENT PREVENTION

The City of Waconia is committed to creating and maintaining a public service workplace free of harassment and discrimination. Such harassment is a violation of Title VII of the Civil Rights Act of 1964, the Minnesota Human Rights Act, and other related employment laws.

In keeping with this commitment, the city maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy prohibits harassment in any form, including verbal and physical harassment.

This policy statement is intended to make all employees, volunteers, members of boards and commissions, and elected officials sensitive to the matter of sexual harassment, to express the city's strong disapproval of unlawful sexual harassment, to advise employees against this behavior and to inform them of their rights and obligations. The most effective way to address any sexual harassment issue is to bring it to the attention of management.

APPLICABILITY

Maintaining a work environment free from harassment is a shared responsibility. This policy is applicable to all city employees, volunteers, firefighters, members of boards and commissions, and City Council members, both in the workplace and other city-sponsored social events.

DEFINITIONS

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minn. Stat. § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment; or
- Such conduct has the purpose or result of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

Examples of inappropriate behaviors that are unacceptable and therefore prohibited, even if not unlawful in and of themselves include: unwanted physical contact; unwelcome sexual jokes or comments; sexually explicit posters or pinups; repeated and unwelcome requests for dates or sexual favors; sexual gestures or any indication, expressed or implied, that job security or any other condition of employment depends on submission to or rejection of unwelcome sexual

requests or behavior. In summary, sexual harassment is the unwanted, unwelcome or repeated action of an individual against another individual, using sexual overtones.

EXPECTATIONS

To provide employees with a better understanding of what constitutes sexual harassment, the definition, based on Minn. Stat. § 363.01, subdivision 41, is provided: sexual harassment includes unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when:

The City of Waconia recognizes the need to educate its employees, volunteers, members of boards and commissions, and elected officials on the subject of sexual harassment and stands committed to providing information and training. All employees are expected to treat each other and the general public with respect, and assist in fostering an environment free from offensive behavior or harassment. Violations of this policy may result in discipline, including possible termination. Each situation will be evaluated on a case-by-case basis.

Employees who feel that they have been victims of sexual harassment, or employees who are aware of such harassment, should immediately report their concerns to any of the following:

- A supervisor;
- City administrator;
- Mayor or city councilmember.

In addition to notifying one of the above persons and stating the nature of the harassment, the employee is also encouraged to take the following steps, if the person feels safe and comfortable doing so. If there is a concern about the possibility of violence, the individual should use his/her discretion to call 911, and as soon as feasible, a supervisor.

1. If you feel comfortable doing so, professionally, but firmly, tell whoever is engaging in the disrespectful behavior how you feel about their actions. Politely request the person to stop the behavior because you feel intimidated, offended, or uncomfortable. If practical, bring a witness with you for this discussion.
2. In some situations such as with an offender from the public, it is preferable to avoid one on one interactions. Talk to your supervisor about available options to ensure there are others available to help with transactions with an offender.
3. To reiterate, it's important you notify a supervisor, the city administrator, the mayor or councilmember of your concerns. The person to whom you speak is responsible for documenting the issues and for giving you a status report on the matter. If, after what is considered to be a reasonable length of time (for example, 30 days), you believe inadequate action is being taken to resolve your complaint/concern, the next step is to report the incident to the city administrator, the mayor or the city attorney.

The city urges conduct which is viewed as offensive be reported immediately to allow for corrective action to be taken through education and immediate counseling, if appropriate. Management takes these complaints seriously, and has the obligation to provide an environment free of sexual harassment. The city is obligated to prevent and correct unlawful harassment in a manner which does not abridge the rights of the accused. To accomplish this task, the cooperation of all employees is required.

In the case of a sexual harassment complaint, a supervisor must report the allegations promptly to the city administrator. If the city administrator is the subject of the complaint, then the supervisor is to report the complaint to the City Attorney. A supervisor must act upon such a report even if requested otherwise by the victim. The city will take action to correct any and all reported harassment to the extent evidence is available to verify the alleged harassment and any related retaliation. All allegations will be investigated. Strict confidentiality is not possible in all cases of sexual harassment as the accused has the right to answer charges made against them; particularly if discipline is a possible outcome. Reasonable efforts will be made to respect the confidentiality of the individuals involved, to the extent possible.¹

SPECIAL REPORTING REQUIREMENTS

When the supervisor is the alleged harasser, a report will be made to the city administrator who will assume the responsibility for investigation and discipline.

If the city administrator is the alleged harasser, a report will be made to the City Attorney who will confer with the Mayor and City Council regarding appropriate investigation and action.

If a councilmember is the alleged harasser, the report will be made to the city administrator and referred to the City Attorney who will undertake the necessary investigation. The City Attorney will report his/her findings to the City Council, which will take the action it deems appropriate.

Pending completion of the investigation, the city administrator may at his/her discretion take appropriate action to protect the alleged victim, other employees, or citizens.

¹ The City is not voluntarily engaging in a dispute resolution process within the meaning of Minn. Stat. § 363A.28, subd. 3(b) by adopting and enforcing this workplace policy. The filing of a complaint under this policy and any subsequent investigation does not suspend the one-year statute of limitations period under the Minnesota Human Rights Act for bringing a civil action or for filing a charge with the Commissioner of the Department of Human Rights.

If an elected or appointed city official (e.g., council member or commission member) is the victim of disrespectful workplace behavior, the City Attorney will be consulted as to the appropriate course of action.

RETALIATION

The City of Waconia will not tolerate retaliation or intimidation directed towards anyone who makes a complaint of employment discrimination, who serves as a witness or participates in an investigation, or who is exercising his/her rights, including when requesting religious or disability accommodation. Retaliation is broader than discrimination and includes, but is not limited to, any form of intimidation, reprisal, or harassment. While each situation is very fact dependent, retaliation can include a denial of a promotion, job benefits, or refusal to hire, discipline, negative performance evaluations or transfers to less prestigious or desirable work or work locations because an employee has engaged or may engage in activity in furtherance of EEO laws.

It can also include threats of reassignment, removal of supervisory responsibilities, filing civil action, deportation or other action with immigration authorities, disparagement to others or the media and making false report to government authorities because an employee has engaged or may engage in protected activities. Any individual who retaliates against a person who testifies, assists, or participates in an investigation may be subject to disciplinary action up to and including termination.

If you feel retaliation is occurring within the workplace, please report your concern immediately to any of the following:

1. Immediate supervisor
2. City Administrator
3. Mayor or Member of the Personnel Committee
4. In the event an employee feels retaliation has occurred by the city administrator or the City Council, then reporting may be made to the City Attorney.

Supervisors who have been approached by employees with claims of retaliation will take the complaint seriously and promptly report the allegations promptly to the city administrator, or if the complaint is against the city administrator to the City Attorney, who will decide how to proceed in addressing the complaint.

All visitors should enter the main entrance and proceed to the reception area and sign in with the receptionist. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors.

If an unauthorized individual is observed on the City's premises, employees should immediately notify their supervisor or, if necessary, direct the individual to the reception area.

SECTION 8: SAFETY

The safety and health of each employee of the City of Waconia and the prevention of occupational injuries and illnesses are of primary importance to the City. To the greatest degree possible, management will maintain an environment free from unnecessary hazards and will establish safety policies and procedures for each department. Adherence to these policies is the responsibility of each employee. Overall administration of this policy is the responsibility of each supervisor. The City's Safety Manual can be found on the Waconia Team Website and is linked [here](#).

REPORTING ACCIDENTS AND ILLNESSES

Both Minnesota workers' compensation laws and the state and federal Occupational Safety and Health Acts require that all on the job injuries and illnesses be reported as soon as possible by the employee, or on behalf of the injured or ill employee, to his/her supervisor. The employee's immediate supervisor is required to complete a First Report of Injury and any other forms that may be necessary related to an injury or illness on the job.

SAFETY EQUIPMENT AND GEAR

Where safety equipment is required by federal, state, or local rules and regulations, it is a condition of employment that such equipment be worn by the employee.

UNSAFE BEHAVIOR

Supervisors are authorized to send an employee home immediately when the employee's behavior violates the city's personnel policies, department policies, or creates a potential health or safety issue for the employee or others.

SECTION 9: MISCELLANEOUS POLICIES

ACCEPTANCE OF GIFTS AND GRATUITIES

In accordance with Minn. Stat. § 471.895 all City employees, elected officials, and commission members may not receive a gift from any person or representative of a person or association who has direct financial interest in a decision that a local official or City employee is authorized to make. Employees are also prohibited from giving or accepting gifts from subordinates.

In general, the City will not make donations except where authorized by law, a contribution to a memorial, or purchase flowers for employees, elected officials, or commission members who

are ill or who have lost a family member with City funds. Employees are not prohibited from making a contribution, donation, or purchase flowers as long as it is not done as a representative of the City.

ACCESS TO AND USE OF CITY PROPERTY

All Waconia City property is, by definition, publicly owned property. To serve the best the interests of the public, and to avoid the appearance of favored treatment, personal use of City property (by City employees) is prohibited.

Any employee who has authorized possession of keys, tools, cell phones, pagers, or other City-owned equipment must register his/her name and the serial number (if applicable) or identifying information about the equipment with his/her supervisor. All such equipment must be turned in and accounted for by any employee leaving employment with the City in order to resign in good standing.

Employees are responsible for the safekeeping and care of all such equipment. The duplication of keys owned by the City is prohibited unless authorized by the City Administrator. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

CONTACT WITH MEDIA

ROUTINE INQUIRIES

On occasion, the City employees may receive routine inquiries from members of the media. These routine inquiries may be handled by employees. Employees are expected to report the conversation to their Department Head and City Administrator. Routine inquiries include requests for information that is available to the public on a day to day basis, information meeting dates/time, questions about a report that the employee may have produced for a Council or Commission Meeting, etc.

FORMAL NEWS RELEASES

All formal news releases concerning city business are the responsibility of the City Administrator. All media interviews must be approved by the City Administrator before the interview. All contacts with the media should be reported to the City Administrator as soon as practicable.

No City employee is authorized to speak on behalf of the City without prior authorization from the City Administrator or his/her designee

EMERGENCY SITUATIONS

In emergency situations, a Department Head or On-Scene Incident Commander may respond to media inquiries regarding the situation. The Department Head or On-Scene Incident Commander must report to the City Administrator as soon as practicable the content of the media inquiry and communication. All formal news releases will remain the responsibility of the City Administrator, as specified above.

CONFIDENTIALITY

In the performance of City business, an employee may have access to information or records that are confidential. Disclosure of confidential information can be made only in accordance with established City policies and procedures as well as state and federal law. Employees unsure about the release of confidential information should consult their supervisors prior to releasing any information.

CONFLICT OF INTEREST

City employees are required to remove themselves from situations in which they would have to take action or make a decision where that action or decision could be perceived or is an actual conflict of interest. If an employee has any question about whether such a conflict exists, he/she should consult with the City Administrator. The following are some examples of situations where conflicts of interests might occur:

- If an employee's official capacity with the City or with an outside organization may enable him or her to influence the placing of City business, which allows him or her to directly or indirectly gain something of value.
- If an employee accepts a paid or unpaid position elsewhere and performs an activity that interferes with the employee's duties or job performance at the City.
- If an employee uses information not generally available to the public in the employee's private affairs, which allows him or her to directly or indirectly gain something of value.
- If an employee's personal relationships may have inappropriate influence on business decisions.
- Comply with the Minnesota Human Rights Act and/or any other applicable law.

CONSENSUAL RELATIONSHIPS

The City strongly believes that an environment where employees maintain clear boundaries between employee personal and business interactions is most effective for conducting business. Although this policy does not prevent the development of friendships or romantic relationships between coworkers, it does establish very clear boundaries as to how relationships will progress during working hours and within the working environment. Individuals in supervisory relationships or other influential roles are subject to more stringent

requirements under this policy due to their status as role models, their access to sensitive information, and their ability to influence others.

During working time and in working areas, employees are expected to keep personal exchanges limited so that others are not distracted or offended by such exchanges and so that productivity is maintained. During non-working time, such as lunches, breaks and before and after work periods, employees are not precluded from having appropriate personal conversations in non-work areas as long as their conversations and behaviors could in no way be perceived as offensive or uncomfortable to a reasonable person. Employees are strictly prohibited from engaging in physical contact that would in any way be deemed inappropriate by a reasonable person while anywhere on City premises, whether during working hours or not.

Employees who allow personal relationships with coworkers to affect the working environment will be subject to the appropriate provisions of the City discipline policy. Failure to change behavior and maintain expected work responsibilities is viewed as a serious disciplinary matter.

Supervisors, managers, department heads or anyone else in sensitive or influential positions must disclose the existence of any relationship with another coworker that has progressed beyond a platonic friendship. Disclosure may be made to the immediate supervisor or the City Administrator. This disclosure will enable the City to determine whether any conflict of interest exists because of the relative positions of the individuals involved. Where problems or potential risks are identified, the City will work with the parties involved to consider options for resolving the conflict. The initial solution will be to make sure that the parties involved no longer work together on matters where one is able to influence the other, or take action for the other. Matters such as hiring, firing, promotions, performance management, compensation decisions, financial transactions, etc. are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage.

In some cases, more extreme measures may be necessary, such as transfer to other positions or departments. The individual with the more senior position will be considered for transfer first to avoid any perception of retaliation against the less senior person. Refusal of reasonable alternative positions, if available, will be deemed a voluntary resignation. Continued failure to work with the City to resolve such a situation in a mutually agreeable fashion may ultimately be deemed insubordination and therefore serve as cause for immediate termination. The City's disciplinary policy will be consulted to ensure consistency, however, before any such extreme measures are undertaken. The provisions of this policy apply regardless of the sexual orientations of the parties involved.

No language in this policy is intended to discriminate against individuals on the basis of marital status or sexual orientation under any federal or state law including, but not limited to, the

Minnesota Human Rights Act. The City, in administering this policy, will take all steps necessary to fully comply with the Minnesota Human Rights Act and/or any other applicable law.

FALSIFICATION OF RECORDS

Any employee who makes false statements or commits, or attempts to commit, fraud in an effort to prevent the impartial application of these policies will be subject to immediate disciplinary action, up to and including involuntary termination of employment.

WHISTLEBLOWER PROTECTIONS

An employee of the City who, in good faith, reports an activity that he/she considers to be illegal or dishonest to one or more of the parties may have whistleblower protections. The whistleblower is not responsible for investigating the activity or for determining fault or corrective measures; appropriate city management officials are charged with these responsibilities.

Examples of illegal or dishonest activities include violations of federal, state or local laws; billing for services not performed or for goods not delivered; and other fraudulent financial reporting.

If an employee has knowledge of or a concern of illegal or dishonest fraudulent activity, the employee is to contact his/her immediate supervisor or Human Resources. The employee must exercise sound judgment to avoid baseless allegations. An employee who intentionally files a false report of wrongdoing may be subject to discipline up to and including termination.

It is the city's legal responsibility to protect employees who make a complaint of employment discrimination, who serve as a witness or participate in an investigation, or who are exercising their rights when requesting religious or disability accommodation from retaliation.

Whistleblower protections are provided in two important areas – confidentiality and against retaliation; insofar as consistent with Minnesota Data Practices, the confidentiality of the whistleblower will be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. The City will not retaliate against a whistleblower. This includes but is not limited to, protection from retaliation in the form of an adverse employment action such as termination, compensation decreases, or poor work assignments and threats of physical harm. Any whistleblower who believes he/she is being retaliated against must contact Human Resources immediately. The right of a whistleblower for protection against retaliation does not include immunity for any personal wrongdoing.

DRESS AND APPEARANCE

PURPOSE

Maintaining a professional, business-like appearance reflects a positive, competent and capable workforce and demonstrates courtesy to co-workers and projects the reputation of the organization. As such, employees are expected to dress neatly and to exercise good judgment in selecting clothing and footwear appropriate for a business environment.

POLICY

The City of Waconia has implemented a “Dress for Your Day” policy which empowers employees to use good judgement when they are selecting their attire for the day, within guidelines. Employees should monitor what meetings and appointments they have each day and for days requiring meetings, should include more business-oriented attire. For days where there are not meetings with the public, employees are expected to dress in a business casual way, however, dark denim is appropriate. Please see the City’s full “Dress for your Day” policy for more details and guidance.

VIOLATIONS

We expect all employees to dress professionally and to positively represent the City of Waconia through their daily interactions with residents, consultants, businesses and the general public. Much like our current dress code policy, we expect managers to address an employee if there is an issue. Violations of the dress guidelines can range from inappropriate clothing items to offensive perfumes and body odor. If an employee comes to work in inappropriate attire, they may be asked to go home, change into appropriate clothing or properly groom, and return to work. In this circumstance, employees will be required to use accrued but unused vacation time. for more details and guidance.

UNIFORM PERSONNEL & ALLOWANCE

Uniforms, which are provided to some City Employees, are expected to be neat, fresh, and clean when reporting for duty. Each Department Head is responsible for seeing that employees follow regulations regarding uniforms, related accessories, and equipment. Uniforms bearing City identification should not be worn during off-duty hours. Uniforms should be worn at work unless an exception is made by the supervisor.

If a uniformed employee desires to wear a cap, it must bear the City logo.

When the City provides rental uniforms and laundering service for rental uniforms, employees who are negligent in the care of the rental uniform shall be responsible for reimbursement or restoration of the rental agreement.

Full-time maintenance personnel are required to wear steel toed, oil resistant, non-slip boots as part of their uniform. To help offset the cost of this item, employees will be allowed to claim a reimbursement, up to \$200 annually. This allowance is only allocated for the purchase of boots on an annual basis.

DRIVING AND PARKING

DRIVING RECORDS

This policy applies to all employees who drive a vehicle on city business at least once per month, whether driving a city-owned vehicle or their own personal vehicle. It also applies to employees who drive less frequently but whose ability to drive is essential to their job due to the emergency nature of the job. The City expects all employees who are required to drive as part of their job to drive safely and legally while on City business and to maintain a good driving record and proper levels of insurance.

The City may examine driving records, with inspections to be conducted by the office of the City Administrator, once per year for all employees who are covered by this policy to determine compliance with this policy. Employees who lose their driver's license or receive restrictions on their license are required to notify their immediate supervisor on the first work day after any temporary, pending or permanent action is taken on their license and to keep their supervisor informed of any changes thereafter.

The City will determine appropriate action on a case-by-case basis.

EMPLOYEE PARKING

City Hall employee vehicles must be parked in the Fountain Park parking lot located across Vine Street. This will allow for the public to have access to the prime parking spots available for City business and tenant customers.

There are two exceptions. When the parking lots are full, the overflow parking should use the row of parking adjacent to the municipal parking lot. Employees at City Hall for a brief visit or parking for fewer than 90 minutes may park closer to the building. Employees are expected to use their best judgment in these situations to preserve the prime spots for the public.

Employees working at other City facilities, where possible, must be parked in areas away from the main entrances to allow the public to have access to the prime parking spots.

DRUGS, ALCOHOL, AND TOBACCO

The following policy language is an abridged version of the entire City of Waconia policy as it relates to being under the influence of, use, possession, or any other acts associated with drugs

and alcohol while performing work duties as an employee of the City of Waconia and the City's responsibility and employee rights as it relates to drug and alcohol testing. The entire version of this policy is attached as **Appendix A**.

For the purposes of this policy, alcohol and drugs are defined as any mood-altering drugs, and/or controlled substances including, but not limited to, all forms of alcohol, narcotics, depressants, stimulants, hallucinogens, marijuana or the use of prescriptions drugs as to induce mental, emotional or physical impairment, behavior or appearance which adversely affects work performance. Violations of this policy will result in disciplinary action, up to and including termination, and in some cases may result in legal consequences.

In accordance with federal and state law, the City of Waconia has adopted the following policy on drugs in the workplace:

- A. Employees are expected and required to report to work on time and in appropriate mental and physical condition. It is the City's intent and obligation to provide a drug-free, safe and secure work environment.
- B. No employee shall report to work under the influence of alcohol, controlled substances, or other drugs that affect their alertness, coordination, reaction, response, judgment, decision making, or safety.
- C. The unlawful manufacture distribution, possession, or use of a controlled substance on City property or while conducting City business is absolutely prohibited.
- D. No employee shall use, sell, possess, or transfer alcoholic beverages while on City premises.
- E. The City recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use their health insurance plans or Employee Assistance Plan (EAP), as appropriate.
- F. Employees must, as a condition of employment, abide by the terms of this policy and must report any conviction under a criminal drug statute for violations occurring on or off work premises while conducting City business. A report of the conviction must be made within five (5) days after the conviction as required by the Drug-Free Workplace Act of 1988.

DRUG AND ALCOHOL TESTING

The purpose of this Policy is to set forth procedures for drug and alcohol testing of employees and job applicants as required by Minn. Stat. § 181.951 - 181.957.

Except as set forth herein, this policy is applicable to all present employees and all job applicants provided that a job offer has been made to the applicant. This testing policy does not apply to those job applicants or employees to whom the provisions of the DOT drug and alcohol testing statutes apply. In the instance where federal law supersedes or is more restrictive than state law or City policy, federal law will control.

Drug testing may be requested and required for all job applicants who have been offered a job. Current employees may be requested and required to undergo drug and alcohol testing, randomly and without prior notice if the City has a reasonable suspicion that the employee is under the influence of drugs or alcohol, the employee has violated City's drug and alcohol in the workplace policy, has been involved in or caused another person to sustain personal injury, or has caused a work related accident or was operating, or helping to operate machinery involved in an accident, an employee who has been referred to a chemical dependency evaluation or treatment program by the City, or an employee who is participating in a program under an employee benefit plan.

REFUSAL TO SUBMIT TO TESTING

An employee or job applicant has the right to refuse to undergo drug and alcohol testing. However, if an employee refuses to submit to drug and alcohol testing carried out in conjunction with this policy, the employee may be subject to the City's discipline policy. If a job applicant refuses to submit to drug and alcohol testing, the job applicant may not be hired.

FAILURE OF TEST AND TAMPERING

Upon the first failure of a drug or alcohol confirmatory test, an employee will be given an opportunity to participate in a chemical dependency counseling or rehabilitation program. If the employee refuses or has failed to successfully complete the program within a reasonable amount of time, the employee will be subject to the City's discipline policy.

An employee or job applicant may request, in writing, a retest at the employee's expense within five days after notice of a positive confirmatory test. If a retest is not requested, the employee will be subject to the City's disciplinary policy. A job applicant who receives a positive test, fails or refuses to request a confirmatory test may be refused employment and will be notified of such reasons for the rescission. An employee or job applicant who receives a positive test result has the right to receive a copy of the test.

Any employee who is found to have tampered with their test sample will be subject to the City's discipline policy.

FEDERAL OMNIBUS TRANSPORTATION EMPLOYEE TESTING AND REGULATIONS

This policy establishes the program designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles. This is in conjunction with the Federal Omnibus Testing Act and the U.S. Department of Transportation Regulations, 49 C.F.R. Part 392. All employees who are required to obtain and hold a commercial driver's license are subject to this policy, unless waived by the Public Safety Exemption.

Prohibited Conduct:

- A. An employee who is found to have a tested alcohol concentration of 0.02 or greater but less than 0.04 shall not perform any driving duties in which a commercial driver's license is required. The employee shall not perform these duties until the start of the next scheduled shift, but not less than 24 hours following the administration of the test. The employee will not be compensated for the time-off but may use accrued paid time off or compensatory time during this absence.
- B. No employee shall report for duty or remain on duty while having an alcohol concentration of 0.04 or greater or while using any controlled substance, unless the use is pursuant to the instructions of a physician and it does not affect the driver's ability to safely operate a commercial vehicle.
- C. No employee shall report for duty, or remain on duty if the employee tests positive for controlled substances.
- D. No employee shall report for duty, or remain on duty, if an employee is consuming or possesses alcohol of any quantity.
- E. An employee shall inform their supervisor of any therapeutic drug use.

The City shall not allow an employee to be on duty, or to report for duty if they have actual knowledge that a driver has an alcohol concentration of 0.04 or greater and/or has used a controlled substance unless it is permitted pursuant to the written instructions of a physician.

TESTS REQUIRED

Prior to beginning employment with the City, covered employees of this policy will undergo testing for controlled substances and alcohol. All job offers for covered job classes will be conditional upon successful completion of said test.

The City will require all covered employees to undergo post-accident, as well as be subject to random and without prior notice testing, testing upon reasonable suspicion or violation of any City policies pertaining to drugs and alcohol, and return to duty testing.

SMOKING AND TOBACCO USE

All City buildings and vehicles, in their entirety, shall be designated as tobacco free, meaning that no person will smoke tobacco or other substances or use smokeless tobacco while in a City facility or vehicle, or while on an active job site in the field. Smoking of any kind, including pipes, cigars, and cigarettes, and the use of chewing tobacco is prohibited for employees while on duty. Employees 18 and over are allowed to smoke or use chewing tobacco only during their break and lunch period, and only in areas designated for that purpose.

OUTSIDE EMPLOYMENT

An employee may hold a job with another organization as long as he or she satisfactorily performs his or her job responsibilities with the City. All employees will be judged by the same performance standards and will be subject to the City's scheduling demands, regardless of any existing outside work requirements.

If the City determines that an employee's outside work interferes with performance or the ability to meet the requirements of the City as they are modified from time to time, the employee may be asked to terminate the outside employment if he or she wishes to remain with the City.

Outside employment will present a conflict of interest if it has an adverse impact on the City.

POLITICAL ACTIVITY

City employees have the right to express their views and to pursue legitimate involvement in the political system. However, no City employee will directly or indirectly, during hours of employment, solicit or receive funds for political purposes. Political activity in the workplace is not allowed to avoid any conflict of interest or perception of bias such as using authority or political influence to compel another employee to apply for or become a member in a political organization.

In accordance with Minn. Stat. § 410.191 and 412.02 neither the mayor nor a councilmember may be a full-time City employee.

POSSESSION AND USE OF DANGEROUS WEAPONS

The City of Waconia hereby establishes a policy prohibiting all personnel from carrying or possessing firearms while acting in the course and scope of employment or duty for the City. The possession or carrying of a firearm by personnel is prohibited while working on City property or while working in any location on behalf of the City. This includes, but is not limited to:

- Driving on City business;
- Riding as a passenger in a car or any type of mass transit on City business;
- Working at City Hall or any other City-owned work site;
- Working off-site on behalf of the City;
- Performing emergency or on-call work after normal business hours and on weekends;
- Working at private residences and at businesses on behalf of the City;
- Attending training or conferences on behalf of the City.

The following is an exception to the dangerous weapons prohibition:

Employees legally in possession of a firearm for which the employee holds a valid permit, if required, and said firearm is secured within an attended personal vehicle or concealed from view within a locked unattended personal vehicle while that person is working on City property.

SECURITY INSPECTIONS

The City of Waconia wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives, or other improper materials. To this end, the City prohibits the possession, transfer, sale, or use of such materials on its premises. The City requires the cooperation of all employees in administering this policy.

Desks, lockers, and other storage devices such as computer hard drives and portable electronic storage devices or media may be provided for the convenience of employees, but remain the sole property of the City. Accordingly, they, as well as any articles found within them, can be inspected by any agent or representative of the City at any time, either with or without prior notice.

VISITORS IN THE WORKPLACE

To provide for the safety and security of employees and the facilities at the City, only authorized visitors are allowed in the workplace. Restricting unauthorized visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.

BOARD & COMMISSION RECOGNITION

Periodically, the City Council will host an appreciate event for the citizen's that serve the community as appointed members of the various advisory boards and commissions of the City. Recognition may consist of an appreciation gift, short program, and/or light food and beverages. When members leave their board or commission, recognition certifications will be provided to department members.

SECTION 10: USE OF TECHNOLOGY

The City of Waconia is a growing organization which recognizes that the effective use of technology can provide for the convenient, efficient, and cost-effective delivery of City services.

The purpose of this policy is to set standards and procedures that protect the security and integrity of the City's electronic communication and information systems from business interruption, misuse, and/or unauthorized or inappropriate access; and to establish a hardware and software replacement process to assure the efficient delivery of services.

The policy shall apply to all City employees, whether regular or temporary, consultants, vendors, volunteers, or others who may have access to or use the City's IT systems both on and off City property. All users must be authorized to use the City's IT systems through their Department Head. Remote access to the city's network system shall be limited to regular, full-time employee use. Remote access into the City's network system must be authorized by the Department Head.

Failure to abide by this policy or its provisions may result in discipline up to and including termination of employment or service contract.

This policy shall include all IT systems, including but not limited to desktop computers, laptops, e-mail, Internet, printers, scanners, fax machines, digital cameras, personal digital assistants (pda), smart phones, and software.

The City of Waconia reserves the right to inspect, monitor and audit any data, use or setting of its IT systems at any time without consent from users. An inspection may result in the removal of hardware, software, or data files not compliant with this policy.

As a government agency, the City is subject to public disclosure laws and the Minnesota Government Data Practices Act. All files and documents, including personal messages and Internet logs, are owned by the city and may be subject to public data requests. Users should have no expectation of privacy.

HARDWARE AND SOFTWARE

Purchase: To assure that computer software and hardware continues to meet the operational demands and continues to efficiently aid in the cost-effective delivery of municipal services replacement, addition of new equipment shall be accomplished within the annual budget as approved by the City Council. All equipment acquisitions must be in accordance with the City's purchasing requirements of the Financial Policy.

Home Use of City Software and Hardware: Home use of City hardware is permitted on a limited basis in special circumstances if used to conduct City business and in accordance with all

laws, policies and procedures of the City. Home use of City hardware must be authorized in advance by the Department Head.

SOFTWARE

Licensing: All software must be purchased by and licensed to the City. Software may not be installed if there are insufficient licenses. All software manuals and original media must be stored on City property.

Home Use: City-owned software may not be loaded onto non-City-owned equipment.

Development: Any software programs, including but not limited to custom designed databases, electronic logos, templates, web sites, or media, developed for use by the City is the property of the City. Software programs may not be sold or distributed in any way without prior approval of the City Administrator.

ASSET MANAGEMENT

The City will maintain a record listing City-owned hardware and software along with the City's fixed asset database.

Disposal: When removable media are no longer in use, it will be securely destroyed. When computers are removed from use by the City, the hard drives should be securely erased.

COMPUTER USE

USER NAMES AND PASSWORDS

All users must use City-issued user names for computer and network-related access.

Appropriate network access shall be assigned by the City to each user name, and users may log into computers and equipment only with their assigned username. User names are not to be shared.

Passwords are created by the employee and are not to be shared, unless requested by the IT Technician or City Administrator. From time to time, the City's IT Technician or City Administrator may need the employee's password to complete a task on behalf of the City. Upon request of the IT Technician or City Administrator, the employee must provide their current password.

The network will require the password to be changed periodically. If a password is forgotten or the employee suspects that their password's security has been compromised, contact the IT Technician.

EMPLOYEE RESPONSIBILITIES

Provide Security: City users are expected to provide reasonable security to their computer work stations and related equipment. Providing reasonable security means, but is not limited to:

- Properly caring for and handling equipment;
- Purging files when appropriate and in compliance with this policy and the City's Records Retention Policy;
- Regularly installing Microsoft security updates;
- Ensuring that passwords are not written down in accessible places;
- Removable media is kept in a secure area;
- Logging out and/or locking down computers when not in use or away from workstation;
- Turning off monitors when away from workstation for a significant period of time; and
- Not keeping laptops and other portable equipment in vehicles.

PERSONAL USE

The City recognizes that some personal use of City-owned computers has and will continue to occur. To prevent abuse of this privilege, personal use is limited to the following:

- Personal use should never preempt work use.
- Only City employees may use City-owned equipment. Family members or friends are not allowed to use City equipment or technology resources. Use of another employee's computer without authorization is also prohibited.
- Limited use of the City's access to the Internet and email systems for personal reasons is allowable, provided it does not interfere with an employee's work, is consistent with all provisions in this policy, and has been approved by the employee's supervisor. Employees are warned that their individual activities on the Internet may be monitored and reported.
- Users must use their own media (disks, CDs) and paper for personal use. No personal files or data are to be stored on the City's file servers.
- The personal use of government data is prohibited. The dissemination in any form of government data that is classified as private or non-public is prohibited by law and the City's Data Practices Policy. Employees must refrain from using information and data learned during their employment for personal gain.
- If during maintenance or inspection of an employee's computer, personal information is found, it will be removed from the computer and the supervisor will be notified.

PROTECT FROM VIRUSES

Employees are responsible for minimizing the potential damage of viruses. Employees must be aware of the potential for corrupt data from removable media, newly purchased software, e-mail attachments, downloaded files or software, or disks received from others. Staff will immediately notify the IT Technician if a virus is found or suspected.

PROPERLY STORE RECORDS

Each employee is required to maintain the home directory of their computer so that it is accessible, organized and reasonably understood.

DATA MANAGEMENT

The Minnesota Government Data Practices Act governs all data stored on computer media owned, leased, or rented by the city including information stored on local hard drives.

DATA OWNERSHIP

All information developed or introduced into a city technology system becomes property of the City. This data is subject to review, investigation, and deletion at the discretion of the city administrator, department heads, IT Technician, or law enforcement.

DATA STORAGE

All City data should be saved to a network drive on a city server (for example, your F or Z drive.) The City backs up all data stored on the file servers. Please review the city's Records Retention Schedule for further information.

Users are responsible for deleting outdated files that are no longer needed for compliance with the City Retention Schedule; this includes data files and email messages. Questions regarding the retention schedule should be addressed to the department head. Questions needing additional clarification should be referred to the City Administrator.

Employees are expected to maintain files in Laserfiche, rather than storing data in a paper form. Once scanned to Laserfiche, employees should regularly delete the electronic version when it is no longer needed.

Government data should not be stored on personal computers, personal USB flash drives, and other similar personal equipment.

"Not public" data should only be stored on a notebook computer or removable media device when there is a business need.

Data stored on a notebook computer, or a removable media device should be strongly encrypted.

PORTABLE FILES

To facilitate off-site work, users may copy necessary data files. A current copy of the portable files should be maintained on the City server.

EMAIL MANAGEMENT

INFORMATION STORAGE

The City e-mail system is a tool to be used for matters directly related to the business activities of the City and as a means to provide services that are efficient, accurate, timely, and complete. E-mail is intended as a medium of communication, not for information storage; therefore, e-mail should not be used for the storage or maintenance of official City records or other City information. Important messages should be saved to the appropriate network folder, printed to .pdf and filed in Laserfiche, and the electronic message deleted.

INAPPROPRIATE USES

Inappropriate use of the City e-mail system includes, but is not limited to:

- Viewing, transmitting, storing, or distributing non-business or inappropriate materials that are sexually explicit; political; stories; material advocating intolerance or disrespect for other people, races or religions; activity for personal gain; pirating of software; copying copyrighted information; or other non-work-related information. This includes non-business-related audio, graphic, or movie files (examples include but are not limited to: streaming audio and video, .mp3, .mp4, .jpg, .tiff, .gif, .mpg, text messages, email, and .avi files); games; jokes; instant messaging; and large data files not directly related to City business.
- Registering your City e-mail address with any online subscription that is not work related, except for emergency notifications from an employee's school.
- Forwarding personal email accounts to the City's email system or forward City email to your personal email account.

SECURITY

E-mail is not the most secure method of transferring data. Confidential or private data should be transferred in a secure method. E-mail files can contain spyware or viruses that can impact the network or pc performance. Users who receive suspected corrupt files or inappropriate e-mail messages with content of an offensive or pornographic nature, should report such message to Administration immediately.

STORAGE

Employees should file email in Laserfiche for retention and should follow the City's Record Retention Schedule.

INTERNET

INTENDED USE

The Internet is available to users for research, education, and communications directly related to the mission and work tasks of the City. Use of the Internet through City computers is a privilege, not a right, discipline, up to and including termination, will be implemented for abusive conduct.

PROHIBITED USES

Users of the Internet should minimize unnecessary network traffic that might interfere with the ability of others to make effective use of this shared network resource.

- Employees may not download unauthorized software, use instant messaging or Internet Relay Chat, utilize unauthorized real-time services (examples include but are not limited to: as radio broadcasts, stock market reports, video broadcasts), or use peer-to-peer networks or file sharing.
- Employees may not intentionally access web sites containing inappropriate materials, including but not limited to, sexually explicit material, political activities, material advocating intolerance or disrespect for other people, races or religions, activity for personal gain, pirating of software, or copying copyrighted information.
- Employees may not access or use social media sites for non-work related business during the work day, including but not limited to sites such as: Facebook, Twitter, MySpace.

SECURITY

Users are responsible for adhering to City standards when browsing the Internet. Failure to adhere puts the City and the individual at risk for legal or financial liabilities, potential embarrassment and other consequences. The City uses management software to monitor end user activity. This software may monitor and limit Internet activity in order to ensure the most efficient use of the valuable resource in accordance with this policy.

CITY WEBSITE

The web site is provided as an additional communication tool between the City and the public it serves for the purpose of communicating City business. The website is not intended as a public forum. Information related to events or business not sponsored by the City shall not be permitted; however, if in compliance with the External Link policy below, may be linked to the

City's site. All information on the City's site will be provided in the most positive, professional, user-friendly manner possible.

PARTICIPATION

Departments are expected to actively participate in maintenance of the website, and must check their information on a monthly basis to ensure that information is current and fresh. Updates shall be provided to the Assistant City Administrator.

EXTERNAL LINKS

Links to other community or government information web sites may be provided within the City's website under the following criteria:

- The information in the linking site is useful and informative to the entire Waconia community rather than special interest groups.
- The information is presented from a neutral viewpoint.
- Typical organizations which are appropriate for linking include:
 - Ad hoc committees appointed by the City Council;
 - Other government entities;
 - Public education institutions;
 - Public utilities that serve Waconia;
 - Non-profit Waconia civic, educational, athletic and recreational organizations;
 - Athletic Associations that serve Waconia and work collaboratively with the Waconia Park and Recreation Department to provide athletic services for Waconia residents; and
 - Businesses located within the City of Waconia that are listed in the business directory on the City's website that have provided their business website.
- Inappropriate links include, but are not limited to, sites which endorse a specific candidate, represent a religious position, or operate for-profit.

The City shall not be responsible for and does not endorse the information on any linked website. Nor does the City guarantee the accuracy, completeness or timeliness of the information on those sites. The City is not liable for defamatory, offensive, or illegal conduct of linked sites. The links from this site to other sites on the Internet do not constitute or imply endorsement or recommendation on the part of the City.

Any organization meeting the above criteria seeking to link to the City website shall make a request in writing to the City's Assistant City Administrator. The written request shall describe the organization or entity's mission. The City reserves sole and exclusive right to determine whether an organization or entity meets the enumerated criteria, and whether to approve the

link. The City also reserves the sole and exclusive authority to discontinue website linkage based upon this policy as interpreted by the City.

ADVERTISEMENTS

The following will be advertised on the City's website:

- All City sponsored events are allowed and will have priority;
- Community wide events that are open, without charge, to attendance by the general public;
- Promotion or advertisement of a special event that promotes visitation or patronage of Waconia businesses or organizations will be permitted, provided the event is open, without charge, to attendance by the general public;
- Promotion or advertisement of a fundraising event will be permitted for non-profit organizations only, proof of non-profit status maybe required; and
- The City reserves the right to approve all advertisement signage, pictures, and language.

DISCLAIMER

The City will make every effort to ensure the accuracy of the information provided on its website. However, due to the possibility of unauthorized modification of the data, transmission errors, HTML browser incompatibilities, human error, changes made since the last update to the website or other aspects of electronic communication that are beyond the City's control, the City does not guarantee the accuracy of the information provided on its website and is not liable for reliance on the information.

MOBILE PHONES

Customer expectations for prompt resolution of questions or service concerns often require the use of wireless communication devices including cellular or smartphones by City officials. Efficient participation in meetings or work from multiple locations may require the use of wireless network access devices by employees.

The purpose of this policy is to outline the reasons for 1) providing a city-issued phone; 2) allowing access to a city network through privately-owned mobile communications device; and 3) providing a stipend for use of personal cellular phone/smartphone/mobile device.

Mobile communications device users who: 1) must remain accessible due to the nature of their job duties; 2) must be available for emergency response or consultation; 3) have job duties that require receiving work communications remotely; or 4) require wireless network access for city duties may be eligible for a city-issued device or participation in one of the city's offered stipends defined in this policy.

GENERAL PROVISIONS FOR CITY ISSUED AND PERSONAL DEVICES USED FOR CITY BUSINESS

The city retains the right to monitor and enforce network security through a mobile device management system. The mobile device management system may require installation of an app or other software on the mobile communications device. In the event that a communications device is damaged, lost, or stolen, the mobile communications device user is responsible for notifying their immediate supervisor and the IT Division as soon as possible. If a stipend is involved, the mobile communications device user is responsible for notifying the HR Division as soon as possible. In the event of a reported damaged, lost, or theft of a device or upon replacement of a device or when an employee is no longer employed by the city, the IT Division reserves the right to remotely remove all city data and/or city information such as contacts, tasks, or applications. The city is not responsible for any lost personal data.

Mobile communications device users shall maintain a password, PIN code protected, photo-password, biometric, or other IT-approved security access protocol on any city-owned or personally-owned smartphone or mobile device. Mobile communications device users are responsible for ensuring the proper elimination of city data, including city network passwords and photos from personal devices before disposal.

A mobile communications device user's use of the device is subject to data practices and data retention requirements under Minnesota law. The mobile communications device user is responsible to upload or transfer any data obtained in the conduct of city business from the device to the appropriate storage medium for the data within the city's network.

The City of Waconia has no expectation for non-exempt employees to check or respond to emails or messages during non-work hours. A non-exempt employee shall not be authorized to incur hours worked or overtime for using email or logging into the city's network outside their normally scheduled work hours, unless explicitly requested by the employee's supervisor.

Mobile communications device users using city-owned devices or connecting personal devices to the city's non-public networks shall sign the relevant waiver forms prior to obtaining network access credentials for the device.

CITY-PROVIDED DEVICES & PERSONAL DEVICES

If a position requires a mobile device for day-to-day use, the employee will have the choice to be provided a City-issued device or use their own personal device for City business while receiving a stipend for that use. Criteria for receiving a city device or a stipend include:

- The position requires the ability to respond to business requests on a regular basis

- The position requires the employee to frequently work off-site during business hours or on an on-call basis
- Position job duties require immediate or emergency response during regular business hours and after business hours
- Position job duties require frequent access of wireless networks outside of the office environment

CITY PROVIDED DEVICES

The City may provide and maintain mobile data devices for certain eligible employees, if the employee requests to be issued a city device. City-issued communication devices are for dedicated business use. Incidental personal calls or texts on city-issued devices will be acceptable. Frequent personal use that interferes with an employee's job functions is prohibited. Personal use may be considered excessive if it causes the city to increase its allotted minutes or payment plan for that department. Frequent personal use, regardless of time of use, may result in reimbursement to the city of any cost associated with personal use.

Work Related Applications

Work related applications may be purchased for a city-owned device with prior approval by the department head. Applications that negatively interact with the city-owned device or with the city's network are prohibited on city-owned devices.

Device Ownership

All devices remain city property and shall be returned to the city upon termination of employment or if the device is no longer necessary for work-related purposes.

Purchasing

The IT Division is responsible for all purchases of city-owned devices.

Accessibility

Cellphone, smartphone, and other mobile data devices are purchased, installed, maintained, and owned by the City of Waconia to facilitate business communications. The contents of communications either made or stored are accessible at all times by city management. These systems shall be treated like other shared filing systems.

City Records

All electronic communications on city-owned devices are city records. The contents may be obtained and disclosed without your permission. **Therefore, the user should not assume that messages are either private or confidential.**

PERSONAL MOBILE DATA AND SMARTPHONE DEVICES ALLOWANCE

If in an approved position, a stipend may be provided for privately-owned personal mobile data devices (including smartphones) that are purchased by the mobile communications device user and used for city business.

Availability

An employee receiving a stipend for a smartphone device must make the phone number available to his or her supervisor, human resources, and the IT division.

Repair and Maintenance

Mobile communications device users receiving a stipend for a communications device are personally responsible for ensuring the device is in good working order. The IT Division is not responsible for upkeep, support, or replacement of personal devices that are used for city business. IT support will be limited to instructions for the mobile communications device user on how to sync email, schedules, and tasks (if available), and use of city-supplied security products (if available). The city assumes no liability for any direct or indirect damages arising from the user's use of personal data device.

Connecting a personal device to the city's network opens the city's network to security vulnerabilities. Mobile communications device users connecting a personal device to the city's network are responsible for taking appropriate steps to keep their device operating systems current and updated and to protect their connected devices from virus, malware, and security threats. The city reserves the right to deny connection to the network for any personal devices the IT Manager deems to be a significant security risk to the city's network or resources. If an application on a personal device is found to negatively interact with the city's network, the city may prohibit connection of that device to the city's network until the application is removed.

Stipends

If an employee elects to use their personal phone for city business versus a city-issued device, they will receive a stipend of \$520 annually (\$20/check). All stipends may be eliminated if job duties change such as the criteria above are no longer met. Department directors should review employee needs for communication devices on an annual basis.

Compliance with Internal Revenue Service (IRS) Regulations

Stipend payments by the city are considered a taxable benefit and will be included as taxable income to the recipient.

Work-Related Applications

Work-related applications may be purchased by the city and used on a personally owned device with prior approval by the department head or City Administrator. Some applications may be required for download for specific users.

Data Request

In the event of a data request, an employee may be required to turn over text messages, phone call records, photos, browsing data, or emails related to the specific request.

RESPONSIBILITY

An employee who is found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

PERSONAL USE OF PERSONAL CELL PHONES

Employees may not use their personal cell phones/wireless device during normal work hours. Personal cell phones may be used during break periods and are not to be carried by employees during the performance of their regular duties.

There may be instances where employees need to have their work phone calls forwarded to a personal cell phone/wireless device. Supervisors are responsible for managing this practice. Employees should obtain prior authorization from their Supervisors before forwarding of any phone to a personal cell phone/wireless device. City employees may also need to sync or access their work calendars via a personal cell phone/wireless device/ or web based portal. Employees should obtain prior authorization from their Supervisor before syncing their work calendar to a personal cell phone/wireless device or web based portal. In these instances, the City will not reimburse employees for the use of their personal cell phone/wireless device or any internet access fees incurred by the employee.

HANDS FREE WHILE DRIVING

All employees are expected to follow applicable local, state, and federal laws and regulations regarding the use of cellphones at all times. Employees whose job responsibilities include regular or occasional driving are expected to refrain from using their phone while driving. Safety must come before all other concerns. Regardless of the circumstances, and in accordance with Minnesota law, employees are required to use hands-free operations or pull off into a parking lot and safely stop the vehicle before placing or accepting a call. Employees are encouraged to refrain from discussion of complicated or emotional matters and to keep their eyes on the road while driving at all times. Special care should be taken in situations where there is traffic or inclement weather, or the employee is driving in an unfamiliar area.

Additionally, reading or sending text messages, making or receiving phone calls, emailing, video calling, scrolling, typing, accessing a webpage, or using non-navigation applications while driving is strictly prohibited.

Please note that in accordance with State law, there is an exception to hands free cell phone operations to obtain emergency assistance to report a traffic accident, medical emergency, or serious traffic hazard, or to prevent a crime from being committed. There is also a State law exception for authorized emergency vehicles while in performance of official duties. While there is this exception in the law, we hold all our employees to the same standard of not using mobile devices while driving.

Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

TRAINING

Department Heads shall be responsible for addressing staff training needs as part of the development of their annual budgets to ensure each user is adequately trained to accomplish their job duties. Annual training needs shall be reviewed with Administration to determine if there are cross-departmental needs. Training needs will be prioritized based on amount of need, training funds available, and applicability to job functions.

APPENDIX A: ALCOHOL AND OTHER DRUG USE BY EMPLOYEES IN THE WORKPLACE

Purpose: The purpose of this Policy is to set forth the City's policy regarding alcohol and other drug use in the workplace. Employees are expected and required to report to work on time and in appropriate mental and physical condition.

Applicability: This Policy is applicable to all City employees and shall be enforced by each Department Director and the City Administrator.

Definitions:

- A. **"Work-related Alcohol and Other Drug Abuse"** is defined as the use of mood-altering drugs, and/or controlled substances including, but not limited to, all forms of alcohol, narcotics, depressants, stimulants, hallucinogens, marijuana, or the use of prescription drugs as to induce mental, emotional or physical impairment, behavior or appearance which adversely affects work performance.
- B. **"Adversely Affects Work Performance"** and **"Under the Influence"** shall be determined to be present if the employee is perceptibly impaired; has impaired alertness, coordination, reactions, responses or effort; if the employee's condition threatens the safety of himself or herself or others; or if the employee's condition or behavior presents the appearance of unprofessional or irresponsible conduct detrimental to the public's perception of the City as an employer as determined by the Supervisor or Administrator or others observing the employee.
- C. **"Controlled Substances"** means those substances whose distribution is controlled by regulation or statute including, but not limited to, narcotics, depressants, stimulants, hallucinogens, and marijuana as provided for by Minn. Stat. § 152.
- D. **"Mood-altering"** or **"Alter"** means changed behavior which may limit an employee's ability to safely and efficiently perform his or her job duties or poses a threat to the safety of the employee or others.

Non-Discrimination: The City's policy on work-related substance abuse is non-discriminatory in intent and application. In accordance with Minn. Stat. § 363.01, subd. 35, disability excludes any condition resulting from alcohol or drug abuse which prevents a person from performing essential functions of the job in question or creates a direct threat to property or the safety of individuals.

Consequence of Violations: Violations of this Policy may constitute just cause for discipline, including possible discharge. Each situation will be evaluated on a case-by-case basis depending upon the severity and circumstances involved.

PROHIBITIONS

1. No employee shall report to work under the influence of alcohol, marijuana, controlled substances, or other drugs that affect his or her alertness, coordination, reaction, response, judgment, decision-making, or safety.
2. No employee shall operate, use, or drive any equipment, machinery, or vehicle of the City while under the influence of alcohol, marijuana, controlled substances, or other mood-altering drugs. Such employee is under an affirmative duty to immediately notify his or her supervisor that he or she is not in appropriate mental or physical condition to operate, use, or drive City equipment.
3. During work hours, while on the City's premises or wherever the City's work is being performed, no employee shall use, sell, possess, or transfer any illegal drug, cannabis, or any prescription drug, except as medically prescribed and directed which does not adversely affect work performance. Additionally, employees shall not participate in these activities during rest breaks or during overtime work.

During work hours or while on the City's premises, no employee shall use, sell, possess, or transfer alcoholic beverages, with the following exceptions:

- Consumption, possession, sale, or purchase of alcohol when authorized by the City Administrator under executive authority.
- Possession of alcohol while being transported in a City vehicle in compliance with applicable statutory requirements and under the direction of the City Administrator.

Additionally, employees shall not participate in these activities during rest breaks or during overtime work.

4. Engaging in off duty sale, purchase, transfer, use or possession of illegal drugs or controlled substances may have a negative effect on an employee's ability to perform his or her work for the City. In such circumstances, the employee is subject to discipline.
5. When an employee is taking medically authorized drugs or other substances which may alter job performance, as defined in Definitions (d) above, the employee is under an affirmative duty to notify the appropriate supervisor of his or her temporary inability to perform the job duties of his or her position.
6. Department Directors or the City Administrator will notify the appropriate law enforcement agency when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession at work or on City premises.

7. Employees are discouraged from consuming alcoholic beverages during lunch or dinner meals when returning immediately thereafter to perform work on behalf of the City. Employees are advised that in any situation after the intake of alcohol where the employee must continue conducting the City's business, any employee whose condition or behavior adversely affects his or her work performance shall be subject to possible discipline, up to, and including discharge.
8. Data Disclosure: Disclosure of information regarding employee alcohol and other drug use in the workplace must be consistent with applicable law. Questions in this area should be directed to the City Administrator.
9. Drug and Alcohol Testing: Any alcohol and other drug testing undertaken by appointing authorities shall be in accordance with Minn. Stat. § 181.950 - 957 (1987), the Minnesota Drug and Alcohol Testing in the Workplace Act. See Drug and Alcohol Testing Policy of the City of Waconia.

SUPPLEMENTAL POLICIES

City Departments may promulgate supplemental policies, which are not in conflict with this Policy, including prohibiting the use or consumption of alcohol and controlled substances within a specified period before the commencement of work. Such pre-work abstinence must be restricted to employees involved in sensitive security, treatment, or equipment operation and written notice must be disseminated to affected employees. Further, policies may be adopted only after meet and confer sessions are held with the City Administrator.

APPENDIX B: DRUG, ALCOHOL, & CANNABIS TESTING & DRUG FREE WORKPLACE ACT POLICY FOR NON-COMMERCIAL DRIVERS (NON-DOT)

Purpose & Objectives:

The city of Waconia ("city") has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The city of Waconia does not intend to intrude into the private lives of its employees, but strongly believes that a drug, alcohol and cannabis-free workplace is in the best interest of employees and the public alike. Alcohol, drug, and cannabis abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers' compensation claims, higher insurance rates, and an increase in theft of city property. The city of Waconia's Drug, Alcohol and Cannabis Testing Non-DOT policy has been established for the purpose of providing a safe workplace for all.

City employees and applicants required to hold a commercial driver's license by the United States Department of Transportation ("DOT") for their job will be tested under the city's Policy on Controlled Substance and Alcohol Testing for Commercial Drivers (the "DOT Policy"). All other employees and job applicants offered employment with the city must undergo testing as described by this policy.

To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the “policy acknowledgement.” A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.

Definition(s).

- A. **Alcohol:** Means the intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.
- B. **Alcohol use or usage:** Means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- C. **Applicant:** Means a person applying for a job with the city.
- D. **Cannabis:** Means cannabis and its metabolites, including cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumer products.
- E. **Cannabis testing:** Mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of cannabis in the sample tested.
- F. **City:** Means the city of Waconia
- G. **City premises:** Means, but is not limited to, all city job sites and work areas. For the purposes of this policy, city premises also includes any other locations or modes of transportation to and from those locations while in the course and scope of employment of the city.
- H. **City vehicle:** Means any vehicle which employees are authorized to use solely for city business when used at any time; or any vehicle owned or leased by the city when used for city business.
- I. **Collection site:** Means a place designated by the city where job applicants and employees present themselves for the purpose of providing a specimen of their breath, urine, and/or blood to be analyzed for the presence of drugs and alcohol.

- J. **Confirmatory test:** Means a drug, alcohol or cannabis test on a sample to substantiate the results of a prior drug, alcohol test or cannabis on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.
- K. **Drug:** Includes any “controlled substance” as defined in Minn. Stat. § 152.01, subd. 4, and also includes all cannabinoids, including those that are lawfully available for public consumption that do not otherwise qualify as being a “controlled substance” as defined in Minn. Stat. § 152.01, subd. 4. Cannabis and its metabolites are considered a “drug” for positions in the following categories, regardless of the kind of testing involved: safety sensitive positions; peace officer positions; firefighter positions; positions requiring face-to-face care, training, education, supervision, counseling or medical assistance to children, vulnerable adults or patients receiving treatment, examination or emergency care for a medical, psychiatric or mental condition; positions requiring a commercial driver's license or requiring the employee to operate a motor vehicle for which state or federal law requires drug or alcohol testing; positions funded by a federal grant; or other positions for which state or federal law requires testing of a job applicant or employee.
- L. **Drug and/or alcohol testing, and drug and/or alcohol test:** Mean analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested. "Drug and alcohol testing," "drug or alcohol testing," and "drug or alcohol test" do not include cannabis or cannabis testing, unless stated otherwise.
- M. **Drug paraphernalia:** Has the meaning set forth in Minn. Stat. § 152.01, subd. 18.
- N. **Employee:** Means a person who performs services for compensation for the city and includes independent contractors except where specifically noted in this policy.
- O. **Initial screening test:** Means a drug, alcohol, or cannabis test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.
- P. **Job applicant:** Means a person who applies to become an employee of the city and includes a person who has received a job offer made contingent on the person passing drug testing.

- Q. **Positive test result:** Means a finding of the presence of alcohol, drugs, cannabis or their metabolites that exceeds the cutoff levels established by the city. Minimum threshold detection levels are subject to change as determined in the city's sole discretion.
- R. **Random selection basis:** Means a mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (2) does not give an employer discretion to waive the selection of any employee selected under the mechanism.
- S. **Reasonable suspicion:** Means a basis for forming a belief based on specific facts and rational inferences drawn from those facts.
- T. **Safety-sensitive position:** Means a job, including any supervisory or management position, in which an impairment caused by drug, alcohol, and/or cannabis usage would threaten the health or safety of any person. The City of Waconia declares that all Public Services positions, including, but not limited to, supervisory and management positions, are tested upon hire, whether the employee has or is expected to obtain a Class A CDL. In addition, all fire positions, including, but not limited to, management positions, are designated as safety sensitive positions.
- U. **Under the influence:** Means (1) the employee tests positive for alcohol drugs, or cannabis or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the city to conclude that the employee is impaired because of illegal drug use or alcohol use.

POLICY

All present employees and all job applicants shall be subject to drug and alcohol testing in conjunction with the provisions of Minn. Stat. § 181.950 - 957, and the following provisions:

PERSON'S SUBJECT TO TESTING AND CIRCUMSTANCES UNDER WHICH TESTING MAY BE REQUIRED

Under this policy, the city may test any applicant to whom an offer of employment has been made and may test employees for alcohol and/or drugs, including cannabis, under the following circumstances with a properly accredited or licensed testing laboratory, in accordance with Minn. Stat. § 181.953, subd. 1.

(1) Pre-Employment Testing:

Every job applicant offered employment with the city receives the offer conditioned upon successful completion of drug test, and/or an alcohol or cannabis test, if applicable, among

other conditions. The city will not request or require a job applicant to undergo cannabis testing related to “lawful consumable products” pursuant to Minn. Stat. § 181.938, including alcohol, cannabis, lower-potency hemp edibles, and hemp-derived consumer products, except with respect to the categories of positions listed below in the definition of “Drug” or if otherwise required by state or federal law. If the job offer is withdrawn based drug test results, the city will inform the applicant of the reasons for the withdrawal. A failure of the drug or other applicable test, a refusal to take the test, or failure to meet other conditions of the offer will result in a withdrawal of the offer of employment even if the applicant’s provisional employment has begun. A negative or positive dilute test result (following a second collection), which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.

Temporary and seasonal employees are not subject to this policy.

The same tests must be required of all job applicants conditionally offered employment for the position.

(2) Reasonable Suspicion Testing:

Consistent with Minn. Stat. § 181.951, subd. 3, employees will be subject to alcohol and/or drug testing, including cannabis testing, when reasonable suspicion exists to believe that the employee:

- Is under the influence of alcohol, drugs or cannabis; or
- Has violated written work rules prohibiting the use, possession, sale or transfer of drugs, alcohol, or cannabis, while working, while on city property, or while operating city vehicles, machinery or any other type of equipment; or
- Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;
- Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.

Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol, drugs or cannabis or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the city’s policies concerning alcohol, drugs or cannabis may have occurred. These observations will be reflected in writing on a Reasonable Suspicion Record Form.

For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee. For an on-site collection service, the employee will remain on site and be observed by the supervisor or designee. The medical facility or on-site collection

service will take the urine or blood sample and will forward the sample to an approved laboratory for testing.

Pursuant to the requirements of the Drug-Free Workplace Act of 1988, all city employees, as a condition of continued employment, will agree to abide by the terms of this policy and must notify the Assistant City Administrator of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction. If required by law or government contract, the city will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

(3) Treatment Program Testing:

In accordance with Minn. Stat. § 181.951, subd. 6, the city may request or require an employee to undergo drug, alcohol or cannabis testing, if the employee has been referred by the city for chemical dependency treatment or evaluation or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be requested or required to undergo drug or alcohol testing, including cannabis testing, without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.

(4) Random Testing:

In accordance with Minn. Stat. § 181.951, subd. 4, the city may require an employee to submit to random drug, alcohol, and cannabis testing, if the employee is in a safety-sensitive position.

RIGHT OF REFUSAL

Employees and job applicants have the right to refuse to submit to an alcohol, drug, or cannabis test under this policy. However, such a refusal will subject an employee to immediate termination.

If an applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.

Any intentional act or omission by the employee or applicant that prevents the completion of the testing process constitutes a refusal to test.

An applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug alcohol or cannabis test. In such a case, the employee is subject to immediate termination of employment, and in the case of an applicant, the job offer will be immediately withdrawn.

Refusal on Religious Grounds:

An employee or job applicant who, on religious grounds, refuses to undergo drug and/or alcohol testing, including cannabis testing, of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug, alcohol, or cannabis testing of a urine sample.

COST OF REQUIRED TESTING

The city will pay for the cost of all drug, alcohol or cannabis testing, requested or required of all job applicants and employees, except for confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.

TAMPERING WITH THE URINE OR BLOOD SAMPLE

If an employee tampers with his or her own urine or blood sample, the employee may be subject to discipline including, but not limited to, discharge.

PROHIBITION AGAINST DRUGS & ALCOHOL

Use and Possession of Alcohol or Drug(s):

Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, including cannabis, or drug paraphernalia, while on duty; while on city premises; while operating any city vehicle, machinery, or equipment; or when performing any city business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter drugs used as intended by the manufacturer.

Besides having a zero-tolerance policy for the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use, possession of, impairment by any cannabis or medical cannabis products (e.g., hash oils, edibles or beverages containing cannabinoids, or pills) on the worksite by a person working as an employee at the city or while “on call” and subject to return to work.

Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by that drug here. Likewise, the fact that cannabis may be lawfully purchased and consumed does not permit anyone to use, possess, or be impaired by them here. The federal government still classifies cannabis as an illegal drug, even though some states, including Minnesota, have decriminalized its possession and use. There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates our equipment or vehicles or who is on one of our worksites. Applicants and employees are still subject to being tested under our drug, alcohol and cannabis testing policy.

Employees are subject to being disciplined, suspended, or terminated after testing positive for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises of the place of employment or during the hours of employment.

While Impaired by Alcohol, Drugs or Cannabis:

Employees are prohibited from being under the influence of alcohol or drugs, including cannabis, or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; while on the city's premises; while operating any city vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter drug used as intended by the manufacturer.

Driving While Impaired:

A conviction of driving while impaired in a city-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting city business, may result in discipline, up to and including discharge.

Criminal Drug Convictions:

Any employee convicted of any criminal drug statute must notify his or her supervisor [and the city's Human Resources Division/City Administrator] in writing of such conviction no later than five days after such conviction. Within 30 days after receiving notice from an employee of a drug-related conviction, the city will take appropriate personnel action against the employee up to and including discharge or require the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program as an alternative to termination. In the event notice is not provided to the supervisor and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including dismissal from employment. In accordance with the Federal Drug-Free Workplace Act of 1988, if the city is receiving federal grants or contracts of over \$25,000, the city will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.

Failure to Disclose Lawful Drugs:

Employees taking a lawful drug, including prescription and over-the-counter drugs or cannabis, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to

his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.

REVIEW & NOTIFICATION OF TEST RESULTS

Notification of Negative Test Results:

In the case of job applicants and in accordance with Minn. Stat. § 181.953, (Human Resources) will notify a job applicant of a negative drug result within three days of receipt of result by the city, and the hiring process will resume. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the city within three working days of the confirmatory test result. A “Negative Test Results Notification” form will be sent to the job applicant, and the job applicant may request a copy of the test result report from (Human Resources).

In the case of current employees and in accordance with Minn. Stat. § 181.953, (Human Resources) will notify the employee of a negative drug and/or alcohol result within three days of receipt of result by the city. A “Negative Test Results Notification” form will be sent to the employee, and he or she may request a copy of the test result report from (Human Resources/the City Administrator)

Notification of Positive Test Results:

In the event of a confirmed positive blood or urine alcohol drug, or cannabis test result, the city will notify the employee of a positive result within three days of receipt of the result. (Human Resources/The City Administrator) will send to the employee or job applicant a “Positive Test Results Notification” letter containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. In accordance with Minn. Stat. § 181.953, subd. 3, a laboratory must report results to the city within three working days of the confirmatory test result.

Right to Provide Information after Receiving Test Results:

Within three working days after notice of a positive drug, alcohol, or cannabis test result on a confirmatory test, the employee or job applicant may submit information to the city to explain the positive result. In accordance with Minn. Stat. § 181.953, subd. 10, if an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as medications the employee is taking), the city will not take an adverse employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.

Right to Confirmatory Retest:

A job applicant or employee may request a confirmatory retest of the original sample at the job applicant's or employee's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the city in writing of the job applicant's or employee's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the city will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. In accordance with Minn. Stat. § 181.953, subd. 3, the laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same drug and/or alcohol threshold detection levels as used in the original confirmatory test.

In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the city's job offer will be reinstated, and the city will reimburse the job applicant for the actual cost of the confirmatory retest. In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the city will reimburse the employee for the actual cost of the confirmatory retest.

Access to Reports:

In accordance with Minn. Stat. § 181.953, subd. 10, an employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.

Dilute Specimens:

A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate termination.

CONSEQUENCES FOR EMPLOYEES ENGAGING IN PROHIBITED CONDUCT

Job Applicants:

The city's conditional offer of employment will be withdrawn from any job applicant who refuses to be tested or tests positive for illegal drugs as verified by a confirmatory test.

Employees:

- **No Adverse Action without Confirmatory Test.** The city will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
- **Suspension Pending Test Result.** The city may temporarily suspend a tested employee with or without pay or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the city believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public.

The employee will be asked to return home and will be provided appropriate arrangements for return transportation to his or her residence. In accordance with Minn. Stat. § 181.953, subd. 10, an employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

DISCIPLINE & DISCHARGE

Confirmatory Positive Test Result:

The city will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:

- The city has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the city after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and
- The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.

Other Misconduct:

Nothing in this policy limits the right of the city to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other city personnel policies.

Emergency Call Back to Work Provisions:

If an employee is called out for a city emergency and he or she reports to work and is suspected of being under the influence of drugs, alcohol, or cannabis he or she will not be subject to the testing procedures of this policy but may be subject to discipline and will not be allowed to work. Appropriate arrangements for return transportation to the employee's residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol, drugs, or cannabis and who is called out for a city emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.

NON-DISCRIMINATION

The city of Waconia policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., ch. 363, disability does not include conditions resulting from alcohol or other drug or cannabis abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property or the safety of individuals.

Furthermore, the city will not retaliate against any employee for asserting his or her rights under this policy.

EMPLOYEE ASSISTANCE PROGRAM

The city has in place a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The city's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol, cannabis, or other drug abuse problem are encouraged to seek assistance before a problem affects their employment status. Employee assistance program services are available by contacting HealthPartners.

You can connect with the EAP by:

- Call **866.326.7194**
- Log on to **hpeap.com** using password **hpeap**
- Download the **iConnectYou** mobile app and register using passcode **111032** to text or video chat with us

Policy Contact for Additional Information

If you have any questions about this policy or the city's drug, alcohol and cannabis testing procedures, you may contact your immediate supervisor, Assistant City Administrator, or the City Administrator to obtain additional information.

By this policy, the city of Waconia has established a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and its policy of maintaining a

drug-free workplace. Each city employee will receive a copy of this policy and will be required to read it.

APPENDIX C: FEDERAL I OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT AND RELATED REGULATIONS IMPLEMENTATION POLICY

Purpose:

The City of Waconia (“City”) has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers as well as themselves. The City is concerned about providing a safe workplace for its employees, and while the City does not intend to intrude into the private lives of its employees, it is the goal to provide a work environment conducive to maximum safety and optimum work standards. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers’ compensation claims, higher insurance rates, and an increase in theft of city property. The use, possession, manufacture, sale, transportation, or other distribution of controlled substance or controlled substance paraphernalia and the unauthorized use, possession transportation, sale, or other distribution of alcohol is contrary to this policy and jeopardizes public safety.

In response to regulations issued by United States Department of Transportation (“DOT”), the City has adopted this Policy on Alcohol and Controlled Substances for employees who hold a commercial driver’s license (CDL) to perform their duties.

Given the significant dangers of alcohol and controlled substance use, each applicant and driver must abide by this policy as a term and condition of hiring and continued employment. Moreover, federal law requires the City to implement such a policy.

To ensure this policy is clearly communicated to all drivers and applicants, and to comply with applicable federal law, drivers and applicants are required to review this policy and sign the “Certificate of Receipt” portion.

Because changes in applicable law and the City’s practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the City will follow any course of action, disciplinary, rehabilitative or otherwise, except as required by law. This policy does not in any way affect or change the status of any at-will employee.

Any revisions to the Federal Omnibus Transportation Employee Testing Act and Federal Motor Carrier Safety Administration (FMCSA) regulations will take precedent over this policy to the extent the policy has not incorporated those revisions.

Persons Subject to Testing:

All employees are subject to testing who job duties include performing “safety-sensitive duties” on City vehicles that:

1. Have a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or
2. Have a gross vehicle weight rating or gross vehicle weight of 26,0001 or more pounds whichever is greater; or
3. Are designed to transport 16 or more passengers, including the driver; or
4. Are of any size and are used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5103(b)) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

The following functions are considered safety-sensitive:

- all time waiting to be dispatched to drive a commercial motor vehicle
- all time inspecting, servicing, or conditioning a commercial motor vehicle
- all time driving at the controls of the commercial motor vehicle
- all other time in or upon a commercial motor vehicle (except time spent resting in a sleeper berth)
- all time loading or unloading a commercial motor vehicle, attending the same, giving or receiving receipts for shipments being loaded or unloaded, or remaining in readiness to operate the vehicle
- all time repairing, obtaining assistance, or attending to a disable commercial motor vehicle.

Definitions:

- A. **Accident:** Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a public road which results in:
 1. A fatality;

2. Bodily injury to a person who, because of the injury, immediately receives medical treatment away from the scene of the accident; or
3. One or more motor vehicles incurring disabling damage because of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

The term accident does not include:

1. An occurrence involving only boarding and alighting from a stationary motor vehicle; or
 2. An occurrence involving only the loading or unloading of cargo; or
 3. An occurrence during the operation of a passenger car or a multipurpose passenger vehicle (as defined in 571.3 of this title) by a motor carrier and is not transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with 77.823 of this title.
- B. **Alcohol**: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
 - C. **Alcohol Concentration (or content)**: the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test (EBT) under this policy and federal regulations.
 - D. **Alcohol Use**: the consumption of any beverage, mixture, or preparation, including medication, containing alcohol.
 - E. **Applicant**: a person applying to drive a commercial motor vehicle
 - F. **Appointing Authority**: the City Council of the City of Waconia who has authority to appoint personnel.
 - G. **BAT (Breath Alcohol Technician)**: an individual who instructs and assists individuals in the alcohol testing process and operates an EBT.
 - H. **Chain of Custody**: procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. With respect to drug testing, these procedures shall require that an appropriate drug testing custody form be used from time of collection to receipt by the laboratory and that receipt by the laboratory an appropriate laboratory chain of custody form(s) account(s) for the sample or sample aliquots within the laboratory.
 - I. **City, City of Waconia, or Employer**: the City of Waconia, Minnesota, acting through its City Administrator or a designee of the City Administrator.
 - J. **City Premises**: Means all job sites, facilities, offices, buildings, structures, equipment, vehicles, and parking areas, whether owned, leased, used, or under the control of the City.

- K. **Collection Site:** A place designated by the Cit where drivers present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of alcohol or controlled substances.
- L. **Commerce:** both of the following:
 - A. Any trade, traffic, or transportation within the jurisdiction of the United States between a place and a state and a place outside of such state, including a place outside of the United States; and
 - B. Any trade, traffic and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (a) of this definition.
- M. **Commercial Motor Vehicle:** a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle;
 - A. Has a gross combination rating of 26,000 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
 - B. Has a gross vehicle weight rating of 26,001 or more pounds; or
 - C. Is designed to transport 16 or more passengers, including the driver; or
 - D. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the hazardous materials regulations set forth under 49 C.F.R. Part 172, Subpart F.
 - E. A commercial motor vehicle does not include a fire truck or other emergency fire equipment.
- N. **Confirmation Test:** for alcohol testing it means a second test, following a screening test with a result of .02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing it means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test, and which uses a different technique in chemical principal from that of the screen test in order to insure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)
- O. **Confirmation Retest:** for controlled substances it means a third analytical procedure to reconfirm the presence of a specific drug or metabolite. If the test result of the primary specimen is positive the driver may request that the MRO direct the split specimen be tested in any different DHHS certified laboratory for presence of the drug(s).
- P. **Consortium:** an entity, including a group or association of employers or contractors, that provides alcohol or controlled substance testing as required by federal regulations, or other U.S. Department of Transportation alcohol or controlled substances testing rules, and that acts on behalf of the employers.

- Q. **Controlled Substance:** has the meaning assigned by 21 U.S.C. 802 and includes all substances listed on Schedule 1-5 as they may be revised from time to time (21 C.F.R. Part 1308).
- R. **DHHS:** the Department of Health and Human Services or any designee of the Secretary, or the Department of Health and Human Services.
- S. **DOT Agency:** an agency (operating administration) of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing in accordance with 49 C.F.R. Part 40.
- T. **Driver:** any person who operates or maintains a commercial motor vehicle. This includes, but is not limited to full-time, regularly employed drivers; part-time and temporary drivers; leased drivers and independent owner/operator contractors who are either directly employed by or under lease to the employer or who operate a commercial motor vehicle at the direction of or with the consent of the employer. For the purposes of pre-employment/pre-duty testing only, the term driver includes a person applying to the City for employment to drive a commercial motor vehicle.
- U. **Drug:** means any substance (other than alcohol) that is a controlled substance as defined in 49 C.F.R. Part 382 and 49 C.F.R. Part 40.
- V. **EBT (Evidential Breath Testing Device):** an EBT provided by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."
- W. **Employer:** the City of Waconia acting through its City Administrator or a designee of the City Administrator.
- X. **Federal Law:** means the Omnibus Transportation Testing Act; the U.S. Department of Transportation regulations found at 49 C.F.R. Part 382; and all laws, regulations, and rules relating to the implementation of the provisions contained therein including, but not limited to, those found at 49 C.F.R., Part 40.
- Y. **Federal Motor Carrier Safety Administration (FMCSA):** Means the Federal Motor Carrier Safety Administration of the United States Department of Transportation.
- Z. **MRO (Medical Review Officer):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employers' drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a driver's confirmed positive test result together with driver's medical history and any other relevant biomedical information.
- AA. **Performing (a safety-sensitive function):** a driver is performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

- BB. Positive Test Result:** Means a finding of the presence of alcohol or controlled substance, or their metabolites, in the sample tested in levels at or above the threshold detection levels established by applicable law.
- CC. Reasonable Suspicion:** means that the City believes the appearance, behavior, speech, or body odors of a driver are indicative of the use of a controlled substance or alcohol based on the observation of at least one (1) supervisor or official who has received training in the identification of behaviors indicative of drug and alcohol use.
- DD. Refuse to submit** (to an alcohol or a controlled substances test) - **a driver:**
- A. Fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part,
 - B. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this policy and federal regulation, or
 - C. Engages in conduct that clearly obstructs the testing process.
- EE. Safety-Sensitive Function:** any of the following:
- A. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City; or
 - B. All time inspecting equipment as required by federal regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time; or
 - C. All driving time which shall mean all time spent at the driving controls of a commercial motor vehicle in operation; or
 - D. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth, which shall mean a berth conforming to the requirements of federal regulations; or
 - E. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate a commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded; or
 - F. All time spent performing the driver requirements of the federal statutes related to accidents; or
 - G. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.
- FF. Screening Test** (also known as **Initial Test**): in alcohol testing, it means an analytical procedure to determine whether a driver may have a prohibited concentration of

alcohol in his or her system. In controlled substance testing, it means an immunoassay screen to eliminate "negative" urine specimens from further consideration.

GG. **State of Readiness:** a driver who is on call, ready to be dispatched to perform safety-sensitive functions while on duty.

HH. **Substance Abuse Professional:** means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

II. **Violation Rate:** the number of drivers found during random tests given pursuant to this policy and federal regulations to have an alcohol concentration of 0.04 or greater, plus the number of drivers who refuse a random test required by this policy and federal regulations, divided by the total reported number of drivers in the industry given random alcohol tests pursuant to this policy and federal regulations, plus the total reported number of drivers in the industry who refuse a random test required by this policy and federal regulations.

PROHIBITED CONDUCT

Conduct related to alcohol and controlled substances

- A. A driver tested under this policy and federal law who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform safety-sensitive functions, including driving a commercial motor vehicle. The driver shall not perform safety-sensitive functions until the start of the driver's next regularly scheduled duty, but not less than twenty-four hours following administration of the test and the driver will not be compensated during the time off. The driver may use benefit hours during the absence if accrued and available.
- B. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater or while using any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substances does not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- C. No driver shall report for duty, remain on duty, or perform a safety-sensitive function, if the driver tests positive for controlled substances.
- D. The City, having actual knowledge that a driver has an alcohol concentration of 0.04 or greater and/or used a controlled substance, shall not permit the driver to perform or continue to perform safety-sensitive functions unless the use of the controlled substance is permitted pursuant to the written instruction of the physician

- E. No driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol in any quantity.
- F. No driver shall use alcohol while performing safety-sensitive functions.
- G. A driver shall inform the driver's supervisor of any therapeutic drug use.
- H. The City, having actual knowledge that a driver is using alcohol while performing safety-sensitive functions or has tested positive for controlled substances, shall not permit the driver to perform or continue to perform safety-sensitive functions.
- I. No driver shall perform safety-sensitive functions within four hours after using alcohol.
- J. The City, having actual knowledge that a driver has used alcohol within four hours, shall not permit a driver to perform or continue to perform safety-sensitive functions.
- K. No driver required to take a post-accident alcohol test because of loss of human life or who receives a citation under state or local law for a moving traffic violation arising from an accident shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- L. No driver shall refuse to submit to a post-accident alcohol and/or controlled substance test, a random alcohol and/or controlled substance test, a reasonable suspicion alcohol and/or controlled substance test, or a follow-up alcohol and/or controlled substance test mandated by this policy and federal law.
- M. The City shall not permit a driver who refuses to submit to the mandated alcohol and/or controlled substance tests under this policy and federal law to perform or continue to perform safety-sensitive functions.

TYPES OF TESTS REQUIRED

PRE-EMPLOYMENT TESTING

All applicants, including current employees seeking a transfer, applying for a position where duties include performing safety-sensitive duties described above, will be required to take a drug test prior to the first time a driver performs a safety-sensitive function for the City. A driver may not perform safety-sensitive functions unless the driver has received a controlled substance test result from the Medical Review Officer ("MRO") indicating a verified negative test result. In addition to pre-employment-controlled substance testing, applicants will be required to authorize in writing former employers to release alcohol test results of .04 or greater, positive controlled substance test results, refusals to test, other violations of drug and alcohol testing regulations, and completion of return to duty requirements within the preceding three years.

The City will contact the candidate's DOT regulated previous and current employers within the last three years for drug and alcohol test results as referenced above and review the testing history if feasible before the employee first performs safety-sensitive functions for the city.

Beginning in 2020, an applicant must provide consent to the city, and successfully pass a full query of the Federal Motor Carrier Safety Administration’s Clearinghouse. In addition, at least once a year, the City will conduct a limited query of the Clearinghouse for each currently employed CDL driver. If the limited query reveals that the Clearinghouse has information about resolved or unresolved drug and alcohol program violations by a candidate or current employee, he or she will be asked to provide electronic consent to a full query of the Clearinghouse (unless he or she has previously provided electronic consent). In the event a full query of the Clearinghouse reveals unresolved violation information for a candidate or current employee, the driver will not be permitted to perform safety-sensitive functions, including the operation of a Commercial Motor Vehicle and, in the case of a candidate, may have their conditional offer of employment rescinded or, in the case of a current employee, may be subject to discipline.

POST-ACCIDENT TESTING

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, the City will test each surviving driver for controlled substances and alcohol when the following occurs:

- The accident involves a fatality or
- The driver receives a citation for a moving traffic violation from the accident and an injury is treated away from the accident scene or
- The driver receives a citation for a moving traffics violation from the accident and a vehicle is required to be towed from the accident scene.

The following chart summarizes when DOT post-accident testing needs to be conducted:

<i>Type of Accident Involved</i>	<i>Citation Issued to the DOT Covered CDL Driver</i>	<i>Test must be Performed by the City</i>
<i>Human fatality</i>	Yes	Yes
	No	Yes
<i>Bodily injury with immediate medical treatment away from scene</i>	Yes	Yes
	No	No
<i>Disabling damage to any motor vehicle requiring tow away</i>	Yes	Yes
	No	No

A driver subject to post-accident testing must remain readily available or the driver will be deemed to have refused to submit to testing. This requirement to remain ready for testing does not preclude a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary medical care.

Post – Accident Controlled Substance Testing

Drivers are required to submit a urine sample for post-accident-controlled substance testing as soon as possible. If the driver is not tested within thirty-two (32) hours after the accident, the City will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not promptly administered.

Post- Accident Alcohol Testing

Drivers are required to submit to post-accident alcohol testing as soon as possible. After an accident, consuming alcohol is prohibited until the driver is tested. If the driver is not tested within two (2) hours after the accident, the City will prepare and maintain on file a record stating why the test was not administered within that time. If eight hours have elapsed since the accident and the driver has not submitted to an alcohol test, the City will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not administered.

The City may accept the results of a blood or breath test in place of an alcohol test and urine test for the use of controlled substances if:

- The tests are conducted by federal, state, or local officials having independent authority for the test, and
- The tests conform to applicable federal, state, or local testing requirements, and
- The test results can be obtained by the City.

Whenever such a test is conducted by a law enforcement officer, the driver must contact the City and immediately report the existence of the test, providing the name, badge number, and telephone number of the law enforcement officer who conducted the test.

RANDOM TESTING

Every driver will be subject to unannounced alcohol and controlled substance testing on a random selection basis. Drivers will be selected for testing by use of a scientifically valid method under which each driver has an equal chance of being selected each time selections are made. These random tests will be conducted throughout the calendar year. Each driver who is notified of selection for random testing must cease performing safety-sensitive functions and report to

the designated test site immediately. It is mathematically possible drivers may be selected be picked and tested more than once, and others not at all.

If a driver is selected for a random test while he or she is absent, on leave or away from work, that driver may be required to undergo the test when he or she returns to work.

For 2020, federal law requires the City to test at a rate of at least fifty percent (50%) of its average number of drivers for controlled substance each year, and to test at a rate of at least ten percent (10%) of its average number of drivers for alcohol each year. These minimum testing rates are subject to change by the DOT.

REASONABLE SUSPICION TESTING

When a supervisor has reasonable suspicion to believe a driver has engaged in conduct prohibited by federal law or this policy, the City will require the driver to submit to an alcohol and/or controlled substance test.

The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver." In the case of controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.

The required observations for reasonable suspicion testing will be made by a supervisor or other person designated by the City who has received appropriate training in identification of actions, appearance and conduct of a driver which are indicative of the use of alcohol or controlled substance. These observations leading to an alcohol or controlled substance test, will be reflected in writing, and signed by the supervisor who made the observations. The record will be retained by the City. The person who makes the determination that reasonable suspicion exists to conduct testing, will not be the person conducting the testing, which shall instead be conducted by another qualified person.

Alcohol testing is authorized only if the observations are made during, just before, or just after the driver has ceased performing such functions. If a reasonable suspicion alcohol test is not administered within two (2) hours following the determination of reasonable suspicion, the City will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the City will prepare and maintain on file a record stating the reasons the alcohol test was not administered and will cease attempts to conduct the alcohol test.

Notwithstanding the absence of a reasonable suspicion test, no driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol use, nor will the City permit the driver to perform or continue to perform safety-sensitive functions until (1) an alcohol test is administered and the driver's alcohol concentration is less than .02; or (2) twenty-four (24) hours have elapsed following the determination of reasonable suspicion.

RETURN-TO-DUTY TESTING

The City reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers for a first positive test result.

Should the City consider reinstatement of a DOT covered driver, the driver must undergo a Substance Abuse Professional ("SAP") evaluation and participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP determines if the driver has completed the education/treatment as prescribed.

The employee is responsible for paying for all costs associated with the return-to-duty test. The controlled substance test will be conducted under direct observation.

FOLLOW-UP TESTING

The City reserves the right to impose discipline against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers.

Should the City reinstate a driver following a determination by a Substance Abuse Professional (SAP) that the driver is in need of assistance in resolving problems associated with alcohol use and/or use of controlled substance, the City will ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency of such follow-up testing will be directed by the SAP and will consist of at least six (6) tests in the first twelve (12) months following the driver's return to duty. Follow-up testing will not exceed sixty (60) months from the date of the driver's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been

administered, if the SAP determines such test is no longer necessary. The employee is responsible for paying for all costs associated with follow-up tests.

Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions.

COST OF REQUIRED TESTING

The City will pay for the cost of pre-employment, post-accident, random, and reasonable substance and alcohol testing requested or required of all job applicants and employees. The driver must pay for the cost of all requested confirmatory re-tests, return-to-duty, and follow-up testing.

PROHIBITED CONDUCT

The following conduct is explicitly prohibited by applicable DOT and FMCSA regulations and therefore constitutes violation of City policy.

UNDER THE INFLUENCE OF ALCOHOL WHEN REPORTING FOR DUTY OR WHILE ON DUTY

No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.02, but less than 0.04, will be removed from duty for 24 hours, escorted home and placed on vacation leave for hours missed from work.

ON DUTY USE OF ALCOHOL

No driver may use alcohol while performing safety-sensitive functions.

PRE-DUTY USE OF ALCOHOL

No driver may perform safety-sensitive functions within four (4) hours after using alcohol. If an employee has had alcohol within four hours, they are to notify their supervisors before performing any safety-sensitive functions.

ALCOHOL USE FOLLOWING AN ACCIDENT

No driver required to take a post-accident alcohol test may use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident alcohol test, whichever occurs first.

REFUSAL TO SUBMIT TO A REQUIRED ALCOHOL OR CONTROLLED SUBSTANCE TEST

No applicant or driver may refuse to submit to pre-employment, post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance testing.

In the event an applicant or driver does in fact refuse to submit to required alcohol or controlled substance testing, no test will be conducted. Refusal by a driver to submit to controlled substance or alcohol testing will be considered a positive test result, will cause disqualification from performing safety-sensitive functions, and may appear on the driver's permanent record. Drivers who refuse to submit to testing will be subject to discipline, up to and including termination. In accordance with the Federal Motor Carrier Safety Administration's (FMCSA) Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse reporting requirements, beginning January 6, 2020, the City will report a driver's refusal to submit to a DOT test for drug or alcohol use to the Clearinghouse within three business days. If an applicant refuses to submit to pre-employment-controlled substance testing, any applicable conditional offer will be withdrawn.

For purposes of this section, a driver is considered to have refused to submit to an alcohol or controlled substance test when the driver:

- Fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.
- Fails to provide adequate urine for controlled substance testing without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing.
- Fails to report for testing within a reasonable period of time, as determined by the City.
- Fails to remain at a testing site until testing is complete.
- In the case of directly observed or monitored collection, fails to permit observation or monitoring.
- Fails or declines to take a second test as required by the City and/or collector.
- Fails to undergo a medical examination as directed by the City pursuant to federal law.
- Refuses to complete and sign the alcohol testing form, to provide a breath or saliva sample, to provide an adequate amount of breath, or otherwise cooperate in any way that prevents the completion of the testing process.
- Engages in conduct that clearly obstructs the test process.

ALTERING OR ATTEMPTING TO ALTER A URINE SAMPLE OR BREATH TEST

A driver altering or attempting to alter a urine sample or controlled substance test, or substituting or attempting to substitute a urine sample, will be subject to providing a specimen under direct observation. Both specimens will be subject to laboratory testing. In such case, the

employee may be subject to immediate termination of employment and any job offer made to an applicant will be immediately withdrawn.

CONTROLLED SUBSTANCE USE

No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver in writing the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers must forward this information regarding therapeutic controlled substance use to the City immediately after receiving any such advice.

Having a medical marijuana card and/or a cannabis prescription from a physician does not allow anyone to use or possess that drug in the city's workplace. The federal government still classifies cannabis as an illegal drug. *There is no acceptable concentration of marijuana metabolites in the urine or blood of an employee who performs safety-sensitive duties for the City.* Employees are still subject to being tested under our policies, as well as for being disciplined, suspended, or terminated after testing positive for cannabis while at work.

CONTROLLED SUBSTANCE TESTING

No driver may report for duty, remain on-duty or perform a safety-sensitive function if the driver tests positive for controlled substance.

SPECIMEN COLLECTION

SPECIMEN COLLECTION PROCEDURES

Drivers are required to report immediately upon notification to the collection site. For random tests conducted off site, employees may use a City vehicle to drive to the collection site. Drivers will be expected to provide a photo ID card for identification to the collection staff. All drivers will be expected to cooperate with collection site personnel request to remove any unnecessary outer garments such as coats, sweaters or jackets and will be required to empty their pockets. Collection personnel will complete a Federal Custody and Control Form ("CCF") which drivers providing a sample will sign as well.

ALCOHOL TESTING

Employees will be tested for alcohol just before, during, or immediately following performance of a safety-sensitive function. If a driver is also taking a DOT controlled substance test, the alcohol test is completed before the urine collection process begins. Screening tests for alcohol concentration will be performed utilizing a non-evidential screening device included by the National Highway Traffic Safety Administration on its conforming products list (e.g., a saliva

screening device) or an evidential breath testing device (“EBT”) operated by a trained breath alcohol technician (“BAT”) at a collection site. An alcohol test usually takes approximately 15 minutes if the result is negative. If a driver’s first attempt is positive (with an alcohol concentration of .02 or greater), the driver will be asked to wait at least 15 minutes and then be tested again. The driver may not eat, drink or place anything in his/her mouth (e.g., cigarette, chewing gum) during this time. All confirmation tests will be conducted in a location that affords privacy to the driver being tested, unless unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident) make it impracticable to provide such privacy. Any results less than 0.02 alcohol concentration is considered a “negative” test result.

If the driver attempts and fails to provide an adequate amount of breath, he/she will be referred to a physician to determine if the driver’s inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the City by the collection site staff.

CONTROLLED SUBSTANCE TESTING

The City will use a “split urine specimen” collection procedure for controlled substance testing. Collection of urine specimens for controlled substance testing will be conducted by an approved collector and will be conducted in a setting and manner to ensure the driver’s privacy.

Controlled substance testing generally takes about 15 minutes. At the collection site, the driver will be given a sealed container and must provide at least 45 ml of urine for testing. Once the sample is provided the collection personnel will check the temperature and color and look for signs of contamination. The urine is then split into two separate specimen containers (A, or “primary,” and B, or “split”) with identifying labels and security seals affixed to both. The collection facility will be responsible for maintaining a proper chain of custody for delivery of the sample to a DHHS-certified laboratory for analysis. The laboratory will retain a sufficient portion of any positive sample for testing and store that portion in a scientifically acceptable manner for a minimum 365-day period.

If an employee fails to provide enough urine to permit a controlled substance test (45 milliliters of urine), the collector will discard the insufficient specimen, unless there is evidence of tampering with that specimen. The collector will urge the driver to drink up to 40 ounces of fluid, distributed reasonably over a period of up to three hours, or until the driver has provided a sufficient urine specimen, whichever occurs first. If the driver has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the collector will cease efforts to attempt to obtain a specimen. The driver must then obtain, within five calendar days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical

issues raised by the employee's failure to provide a sufficient specimen. If the licensed physician concludes the driver has a medical condition, or with a high degree of probability could have, precluded the driver from providing enough urine, the City will consider the test to have been canceled. If a licensed physician cannot make such a determination, the City will consider the driver to have engaged in a refusal to test and will take appropriate disciplinary action under this policy.

The primary specimen is used for the first test. If the test is negative, it is reported to the MRO who then reports the result, following a review of the CCF Form for compliance, to the City. If the initial result is positive or non-negative, a "confirmatory retest" will be conducted on the primary specimen. If the confirmatory re-test is also positive, the result will be sent to the MRO. The MRO will contact the driver to verify the positive result. If the MRO is unable to reach the driver directly, the MRO must contact the City who will direct the driver to contact the MRO.

REVIEW OF TEST RESULTS

The MRO is a licensed physician with knowledge and clinical experience in substance abuse disorders and is responsible for receiving and reviewing laboratory results of the controlled substances test as well as evaluating medical explanations for certain drug test results. Prior to making a final decision to verify a positive test result, the MRO will give the driver or the job applicant an opportunity to discuss the test result, typically through a phone call. The MRO, or a staff person under the MRO's supervision, will contact the individual directly, on a confidential basis, to determine whether the individual wishes to discuss the test result. If the employee or job applicant wishes to discuss the test result:

- The individual may be required to speak and/or meet with the MRO, who will review the individual's medical history, including any medical records provided.
- The individual will be afforded the opportunity to discuss the test results and to offer any additional or clarifying information which may explain the positive test result. If the employee or job applicant, believes a mistake was made at the collection site, at the labor, on a chain-of-custody form, or that the drug test results are caused by lawful substance use, the employee should tell the MRO.
- If there is some new information which may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen in order to further clarify the results; and
- A final determination will be made by the MRO that the test is either positive or negative, and the individual will be so advised.

If the MRO upholds the positive, adulterated or substituted drug determination, that test result will be provided to the City. There is no opportunity to explain a positive alcohol test provided in the DOT regulations.

The driver can request the MRO to have the split specimen (the second “B” container) tested at the driver’s expense. This includes all costs that may be associated with the re-test. There is no split specimen testing for an invalid result. The driver has 72 hours after they have been notified of the positive result to make this request. If the employee requests an analysis of the split specimen, the MRO will direct the laboratory to send the split specimen to another certified laboratory for analysis.

If an employee has not contacted the MRO within 72 hours, the employee may present information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the employee from making timely contact. If the MRO concludes there is legitimate explanation for the employee’s failure to contact within 72 hours, the MRO will direct the analysis of the split specimen.

If the results of the split specimen are negative, the City may pay for all costs associated with the test and there will be no adverse action taken against the employee or job applicant.

NOTIFICATION OF TEST RESULTS

EMPLOYEES

The City will notify a driver of the results of random, reasonable suspicion, and post-accident tests for controlled substance if the test results are verified positive and will inform the driver which controlled substance or substances were verified as positive. Results of alcohol tests will be immediately available from the collection agent.

RIGHT TO CONFIRMATORY RETEST

Within seventy-two (72) hours after receiving notice of a positive controlled substance test result, an applicant or driver may request through the MRO a re-analysis (confirmatory retest) of the driver’s split specimen. Action required by federal regulation because of a positive controlled substance test (e.g., removal from safety-sensitive functions) will not be stayed during retesting of the split specimen. If the result of the confirmatory retest fails to reconfirm the presence of the controlled substance(s) or controlled substance metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will cancel the test.

DILUTE SPECIMENTS

Dilute Negatives Creatinine concentration of specimen is equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL. If the City receives information that a driver has provided a dilute negative specimen, the City will direct a recollection, pursuant to the MRO's direction, under direct observation.

CONSEQUENCES FOR DRIVERS ENGAGING IN PROHIBITED CONDUCT

JOB APPLICANTS

Any applicable conditional offer of employment will be withdrawn from a job applicant or employee seeking a transfer who refuses to be tested or tests positive for controlled substance pursuant to this policy.

EMPLOYEES

Drivers who are known to have engaged in prohibited behavior regarding alcohol misuse or use of controlled substance, as defined earlier in this policy, are subject to the following consequences:

- **Removal from Safety-Sensitive Functions**

No driver may perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by federal law.

No driver who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 may perform or continue to perform safety-sensitive functions for the City, including driving a commercial motor vehicle, until the start of the driver's next regularly scheduled duty, but not less than twenty-four (24) hours following administration of the test.

If a driver tests positive under this policy or is found to have an alcohol concentration of .02 or greater but less than .04, the driver will be removed from safety sensitive duties and escorted home; the driver should not drive home but be escorted to his or her home. The driver will then be placed on vacation, for hours missed from work.

- **Notification of Resources Available**

The City will advise each driver who has engaged in conduct prohibited by federal law or who has a positive alcohol or controlled substance test of the resources available to the driver, in evaluating and resolving problems associated with the misuse of alcohol and use of a controlled substance, including the names, addresses, and telephone numbers of Substance Abuse Professionals and counseling and treatment programs. The City will provide this SAP listing in writing at no cost to the driver.

- **Discipline**

The City reserves the right to impose whatever discipline the City deems appropriate in its sole discretion, up to and including termination for a first occurrence, against drivers who violate applicable FMCSA or DOT rules or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers following a first positive confirmed controlled substance or alcohol test result.

- **Evaluation, and Return to Duty Testing**

Should the City wish to consider reinstatement of a driver who engaged in conduct prohibited by federal law and/or who had a positive alcohol or controlled substance test, the driver must undergo a SAP evaluation, participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP will determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance use and will ensure the driver properly follows any rehabilitation program and submits to unannounced follow-up alcohol and controlled substance testing.

- **Follow-Up Testing**

If the driver passes the return-to-duty test, he/she will be subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency for such follow-up testing will be as directed by the SAP and will consist of at least six tests in the first twelve months. These tests will be conducted under direct observation.

- **Refusal to test**

All drivers and applicants have the right to refuse to take a required alcohol and/or controlled substance test. If an employee refuses to undergo testing, the employee will be considered to have tested positive and may be subject to disciplinary action, up to and including termination. Refer to Refusing to Test provided earlier in this policy.

- **Responsibility for Cost of Evaluation and Rehabilitation**

Drivers will be responsible for paying the cost of evaluation and rehabilitation (including services provided by a Substance Abuse Professional) recommended or required by the City or FMCSA or DOT rules, except to the extent that such expense is covered by an applicable employee benefit plan or imposed on the City pursuant to a collective bargaining agreement.

- **Reporting to the FMCSA's CDL Drug and Alcohol Clearinghouse**

In accordance with the Federal Motor Carrier Safety Administration's (FMCSA) Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse reporting requirements beginning January 6, 2020, the City will report the following information to the Clearinghouse within three business days:

- ✓ A DOT alcohol confirmation test result with an alcohol concentration of 0.04 or greater;
- ✓ A negative DOT return-to-duty test result;
- ✓ The driver's refusal to submit to a DOT test for drug or alcohol use;
- ✓ Actual knowledge a driver has used alcohol or controlled substances, based on the employer's direct observation, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substance abuse except as provided in § 382.121) of:
 - o On duty alcohol use pursuant to § 382.205;
 - o Pre-duty alcohol use pursuant to § 382.207;
 - o Alcohol use following an accident pursuant to § 382.209;
 - o Controlled substance use pursuant to § 382.213;
- ✓ Employers will also report negative return-to-duty (RTD) test results and the successful completion of a driver's follow-up testing plan as ordered by a SAP.

LOSS OF CDL LICENSE FOR TRAFFIC VIOLATIONS IN COMMERCIAL AND PERSONAL VEHICLES

Effective August 1, 2005, the FMCSA established strict rules impacting when CDL license holders can lose their CDL for certain traffic offenses in a commercial or personal vehicle. Employees are required to notify their supervisor immediately if the status of their CDL license changes in anyway.

MAINTENANCE AND DISCLOSURE OF RECORDS

Except as required or authorized by law, the City will not release driver's information that is contained in records required to be maintained by this policy or FMCSA and DOT regulations. Beginning in 2020, the city will be required to query and report to the agency's Commercial

Driver's License (CDL) Drug and Alcohol Clearinghouse prior to hiring new drivers, will conduct annual checks of existing CDL-drivers, and will report certain violations of the DOT drug and alcohol testing program for holders of CDLs. In addition, a driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or a controlled substance, including any records pertaining to his or her alcohol or controlled substance tests.

POLICY CONTACT FOR ADDITIONAL INFORMATION

If you have any questions about this policy or the City's controlled substance and alcohol testing procedures, you may contact your immediate supervisor or Human Resources to obtain additional information.

GOOD FAITH EFFORT

The City of Waconia will make a continuing good faith effort to maintain a drug free workplace through the implementation of the City of Waconia Policy Implementing the Federal Omnibus Transportation Employee Testing Act and Related Regulations.²

² This policy implementing the Federal Omnibus Transportation Employee Testing Act is based upon the final federal regulations at the time of the adoption of this policy. Any revisions in the federal rules shall take precedence over this policy to the extent that the policy has not incorporated the revised rules.



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-275 Lions Field Lighting Upgrade					
Originating Department:		Administration					
Presented by:		Shane Fineran					
Previous Council Action (if any):							
Item Type (X only one):	Consent		Regular Session	X	Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-275 Accepting the Quote from Musco Lighting for the Lions Field Lighting Upgrade							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City Council has been in discussion on partnership with the Waconia Baseball Association to upgrade the lighting facilities at Lions Field. The WBA had presented a lighting package provided by Musco Lighting as well as a financial arrangement in which the WBA would reimburse the city for the cost of the project over a 10 year term. The lighting project scope is \$263,000 and a planned contingency of \$12,000 is suggested. The City Council was agreeable to the scope of the project, the economic development of Lions Field, and financial terms in which a 10 year repayment at a 2.5% interest rate over the life of the term would be applied. The WBA board reviewed the terms and voted to proceed with the project. Staff have begun the work to amend the lease agreement between the city and the WBA for Lions Field use to reflect these terms is being drafted by the City Attorney, but the formal amendment is not currently ready for execution by the WBA or the city. Chris Ohm with the WBA will be present to provide confirmation of the WBA board support and intent to execute the lease amendment. In discussion with Musco Lighting, in order to get items processed, ordered, and delivered for a March installation, and to reduce conflicts with the high school baseball season the order for the lighting is recommended to occur now. The lighting package through Musco is available through the cooperative purchasing program Sourcewell, which the city is a member and has used on other projects throughout the past few years. Staff has confirmation that until the lighting items are shipped we will not be billed for the items and also have the opportunity to cancel the order.							
Attachments:							
1. Resolution No. 2023-275 Accepting the Quote from Musco Lighting for Lions Field Lighting Upgrade 2. Sourcewell Quote - Waconia Baseball Retrofit TK 12-2023							
FINANCIAL IMPLICATIONS:				ADVISORY BOARD RECOMMENDATIONS:			
Funding Sources & Uses:							
Economic Development Fund							
Budget Information:				Planning Commission			
_____ Budgeted				Parks and Recreation Board			
_____ Non Budgeted				Safari Island Advisory Board			
_____ Amendment Required				Other			

**CITY OF WACONIA
RESOLUTION NO. 2023-275**

**RESOLUTION ACCEPTING THE QUOTE FROM MUSCO LIGHTING FOR LIONS FIELD
LIGHTING UPGRADE**

WHEREAS, the City of Waconia and the Waconia Baseball Association have partnered on various field and facility upgrades at Lions Field over the years; and

WHEREAS, the City has a long-term lease with the Waconia Baseball Association for use, maintenance, and financial contributions to the facilities; and

WHEREAS, the Waconia Baseball Association has proposed a lighting upgrade to the field lighting system and have proposed to pay for the cost of the project over a 10-year term;

WHEREAS, a project proposal and pricing is available through Musco Lighting via the Sourcewell Cooperative Purchasing program for the associated upgrades at a cost of \$263,000; and

WHEREAS, the City recognizes the community spirit, involvement, and economic development generated by Lions Field and the activities of the Waconia Baseball Association; and

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Waconia hereby accepts the quote submitted by Musco Lighting and authorizes the City Administrator to execute any documents necessary to finalize the order.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

Attest: _____
Jackie Schulze, City Clerk

December 2023

Project: Waconia Baseball Retrofit
 Waconia, MN
 Ref: 196647

Sourcewell**Master Project:** 199030, **Contract Number:** 041123-MSL, **Expiration:** 06/16/2027**Category:** Sports lighting with related supplies and services

All purchase orders should note the following:
Sourcewell purchase – contract number: 041123-MSL

Quotation Price – Materials Delivered to Job Site and Installation

Baseball Field – (325'/365'/325') \$ 263,000

Sales tax and bonding are not included.

Quote is confidential. Pricing and lead times are effective for 30 days only. Prices are subject to change if the order is not released within 60 days from the date of the purchase.

Light-Structure System™ retrofit with Total Light Control – TLC for LED™ technology**Guaranteed Lighting Performance**

- Guaranteed light levels of 50 footcandles on the infield and 30 footcandles on the outfield and uniformity of 2:1 infield/2.5:1 outfield
- BallTracker® technology – targeted light, optimizing visibility of the ball in play with no glare in the players typical line-of-sight

System Description

- 8 Total Light Control™ TLC-RGBW factory-aimed and assembled luminaires
- 6 Total Light Control™ TLC-RGB-U pole color accent factory-aimed and assembled luminaires
- 24 Total Light Control™ TLC-LED-1200 factory-aimed and assembled luminaires
- 12 Total Light Control™ TLC-LED-1500 factory-aimed and assembled luminaires
- 8 Total Light Control™ TLC-BT-575 BallTracker® factory-aimed and assembled luminaires
- Pole length factory assembled wire harnesses
- Factory wired and tested remote electrical component enclosures
- Auxiliary mounting brackets with crossarm attachment
- Mounting hardware for poletop luminaire assemblies and electrical components enclosures
- Disconnects
- UL listed assemblies

Show-Light® Special Effects with Control-Link® Control and Monitoring System

- Control and monitoring cabinet
- 1 communication cabinets
- 1 touchscreen(s) for onsite control of theatrical effects
- 6 pre-programmed theatrical lighting effects applied to facility lighting design
- 4 minutes of light show programming set to customer supplied and licensed music
- Remote on/off control
- Onsite dimming (high/med/low/blackout)
- Monitoring with 24/7 customer support
- Custom color lighting control



Operation and Warranty Services

- Product assurance and warranty program that covers materials and onsite labor, eliminating 100% of your maintenance costs for 25 years
- Support from Musco's Lighting Services Team – over 170 Team members dedicated to operating and maintaining your lighting system – plus a network of 1800+ contractors

Responsibilities of Buyer

- Confirm pole or luminaire locations, supply voltage and phase required for lighting system prior to production
- Provide electrical design and materials for electrical distribution system
- Buyer is responsible for getting electrical power to the site, coordination with the utility, and any power company fees

Payment Terms

Musco's Credit Department will provide payment terms.

Email or fax a copy of the Purchase Order to Musco Sports Lighting, LLC:

Musco Sports Lighting, LLC
Musco Contracts
Fax: 800-374-6402
Email: musco.contracts@musco.com

All purchase orders should note the following:

Sourcewell purchase – contract number: 041123-MSL

Delivery Timing

8 - 12 weeks for delivery of materials to the job site from the time of order, submittal approval, and confirmation of order details including voltage, phase, and pole/luminaire locations.

Notes

Quote is based on following conditions:

- Shipment of entire project together to one location.
- Voltage and phase system requirements to be confirmed upon purchase.
- Structural code and wind speed = 2018, 110 mi/h, Exposure C, Importance Factor 1.
- Due to the built-in custom light control per luminaire, pole or luminaire locations need to be confirmed prior to production. Changes to pole or luminaire locations after the product is sent to production could result in additional charges.

Thank you for considering Musco for your lighting needs. Please contact me with any questions or if you need additional details.

Scott Peitz

Senior Sales Representative
Musco Sports Lighting, LLC
Phone: 612-368-9286
E-mail: scott.peitz@musco.com





REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	December 18, 2023
Item Name:	Adopt Resolution No. 2023-270 Approving Final Tax Levy Collectible in 2024
Originating Department:	Finance
Presented by:	Nicole Meyer

Previous Council Action (if any):

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

Adopt Resolution No. 2023-270 Approving the Final Tax Levy Collectable in 2024

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

The City Council has conducted numerous budget work sessions and held a public information meeting on Monday, December 4, 2023 to address the proposed 2024 levy as part of the budgeting process. The attached resolution reflects the proposed final 2024 levy to be certified.

A snapshot of the financial model identifies the estimated impact on the 2024 City tax rate and estimates the final impact to an average valued home. With the final proposed levy, the City's tax rate will increase from 41.301% to approximately 44.666%. The total final tax levy collectable in 2024 is \$11,644,556.

Finance staff will provide a summary presentation of the 2024 levy and budget at the meeting.

Attachments:

1. [Resolution No. 2023-270 Approving the Final Tax Levy Collectible in 2024](#)
2. [Financial Model 11-28-2023](#)

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. 2023-270**

**RESOLUTION APPROVING THE FINAL TAX LEVY
COLLECTIBLE IN 2024**

BE IT RESOLVED, by the City Council, of the City of Waconia, County of Carver, Minnesota, that the following sum of money is proposed to be levied for the current year, collectible in 2024 upon the taxable property in said City of Waconia for the following purposes:

GENERAL LEVY:

General Fund	\$7,808,162
(Not including Local Government Aid (LGA) as determined by the Minnesota Department of Revenue)	
General Fund - Economic Development	\$35,000

SPECIAL LEVIES:

2015C Improvement-Public Works (Refunded 2007C)	\$401,675
2019A Improvement-City Hall (Refunded 2010A)	\$230,750
2014A Improvement-1 st St W/Main St/Maple St	\$ 46,000
2015A Improvement-1 st St W/2 nd St W/Vine St/Maple St & Highway 5	\$468,128
2016A Improvement-5 th St W/Maple St/Cherry St	\$236,938
2016 Lease –Construction of Baseball Grandstand	\$ 95,980
2017A Improvement-County Road 110/Community Dr/94 th St	\$595,428
2018A Improvement-2 nd St W/Cedar St	\$ 96,241
2019A Improvement-Waconia Parkway/Walnut St/Equipment Cert	\$ 33,023
2020A Improvement-Main St/Walnut St/3 rd St	\$169,733
2021A Improvement-Waconia Parkway South/East Frontage Road	\$308,175
2022A Improvement-3 rd /Maple St/Fire Station Construction	\$805,435
2023A Improvement-Main/Olive Street-Core Downtown Phase 1	\$313,888

TOTAL 2024 PRELIMINARY LEVY	\$11,644,556
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The City Treasurer is hereby authorized to transmit a certified copy of this Resolution to the County Auditor of Carver County, Minnesota.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

WACONIA FINANCIAL MANAGEMENT PLAN
Updated: 11/29/2023

GENERAL FUND	2022 Actual	2023 Final Budget	2024 Budget	2025 Forecast	2026 Forecast	2027 Forecast
REVENUE						
GENERAL PROPERTY TAX LEVY	6,004,232	6,490,575	7,808,162	9,057,467	9,238,617	9,423,389
Potential for Uncollectible Taxes	(20,563)	(64,906)	(78,082)	(90,575)	(92,386)	(94,234)
ECONOMIC DEVELOPMENT TAX LEVY	-	-	35,000	40,000	50,000	50,000
LOCAL GOVERNMENT AID (LGA)	9,282	-	-	-	-	-
TRANSFERS IN - ENTERPRISE & PEG & PIR DEBT	242,202	272,200	317,200	326,716	336,517	346,613
ADMINISTRATION, FINANCE, & TECH	1,278,323	720,805	728,321	750,171	772,676	795,856
PLANNING & INSPECTIONS	1,665,505	926,200	702,800	709,828	716,926	724,096
CENTRAL FACILITIES	73,512	85,757	90,972	93,701	96,512	99,408
FIRE	112,314	140,219	161,910	166,767	171,770	176,923
LAW ENFORCEMENT	171,270	103,000	295,455	304,319	313,448	322,852
STREETS	226,360	206,971	215,306	221,765	228,418	235,271
PARKS	17,035	8,700	8,700	8,961	9,230	9,507
RECREATION	9,779	9,800	9,800	10,094	10,397	10,709
TOTAL REVENUE	9,789,251	8,899,321	10,295,544	11,599,215	11,852,126	12,100,389
	7.3%	6.9%	15.7%	12.7%	2.2%	2.1%
EXPENDITURES						
ADMINISTRATION, FINANCE, & TECH	1,753,301	1,946,633	2,210,009	2,298,409	2,390,346	2,485,960
PLANNING & INSPECTIONS	1,030,907	762,046	719,681	748,468	778,407	809,543
FIRE	597,052	660,770	755,009	785,209	816,618	849,282
LAW ENFORCEMENT & COMMUNITY SAFETY	952,489	1,065,621	1,299,148	1,351,114	1,405,158	1,461,365
STREETS	1,556,707	1,818,320	2,139,008	2,224,568	2,313,551	2,406,093
PARKS	779,120	968,998	1,058,817	1,101,170	1,145,216	1,191,025
RECREATION	19,225	72,650	81,633	84,898	88,294	91,826
CENTRAL FACILITIES	307,956	315,190	407,675	423,982	440,941	458,579
ECONOMIC DEVELOPMENT	-	-	30,000	31,200	32,448	33,746
TRANSFERS OUT - Debt Service Tax Abatement	416,407	447,825	464,475	475,548	152,442	152,442
TRANSFERS OUT- Capital Equipment Support	300,000	325,000	440,000	650,000	700,000	750,000
TRANSFERS OUT- Safari Island Support	322,710	190,000	176,000	176,000	176,000	176,000
TRANSFERS OUT - Arena Support	530,000	530,000	543,800	594,050	594,050	594,050
TRANSFERS OUT - PIR Capital Support	589,000	535,000	425,000	500,000	600,000	700,000
TRANSFERS OUT-PIR Debt Fund Support	-	-	-	-	-	-
TOTAL EXPENDITURES	9,154,874	9,638,053	10,750,255	11,444,617	11,633,472	12,159,911
Operating % Change	11.9%	9.5%	11.5%	6.5%	1.7%	4.5%
INCREASE(DECREASE) IN FUND BALANCE	634,377	(738,732)	(454,711)	154,598	218,653	(59,523)
EFFECT on Fund Balance						
Fund Balance - January 1	4,024,600	4,658,977	3,920,245	3,465,534	3,620,131	3,838,785
Budgeted Increase(Decrease)	634,377	(738,732)	(454,711)	154,598	218,653	(59,523)
Projected Fund Balance - December 31	4,658,977	3,920,245	3,465,534	3,620,131	3,838,785	3,779,262
% of Operating	67%	52%	40%	40%	41%	39%
GENERAL OPERATING LEVY	6,004,232	6,490,575	7,843,162	9,097,467	9,288,617	9,473,389
% Change	2.0%	8.1%	20.8%	16.0%	2.1%	2.0%
SPECIAL DEBT LEVY	3,021,026	3,732,515	3,801,394	3,731,491	3,177,460	2,879,809
% Change	12.5%	19.1%	1.8%	-1.9%	-17.4%	-10.3%
SPECIAL LEVY FOR INFRASTRUCTURE/EQUIPMENT	0	0	0	612,383	1,470,051	2,078,929
PROPOSED OVERALL TAX LEVY	9,025,258	10,223,089	11,644,556	13,441,342	13,936,128	14,432,127
LESS FISCAL DISPARITIES	1,055,102	990,589	918,979	918,979	918,979	918,979
NET LEVY TO TAXPAYERS	7,970,156	9,232,500	10,725,577	12,522,363	13,017,149	13,513,148
Overall Levy % Change	5.63%	15.84%	16.17%	16.75%	3.95%	3.81%
TAXABLE MARKET VALUE	1,670,262,400	2,130,609,500	2,272,760,500	2,469,688,892	2,552,527,710	2,603,990,290
Change in Market Value	4.70%	21.61%	6.25%	7.97%	3.25%	1.98%
EXISTING TAX CAPACITY	19,157,926	24,264,958	26,108,967	28,197,684	29,325,592	30,205,359
MWF/Cherry Street TIF Capacity reduction	177,980	162,252	190,594	100,000	100,000	100,000
TAX CAPACITY Revisions from MV Changes	-1,712,816	-1,748,340	-1,905,272	-2,057,694	-2,140,002	-2,204,202
NET TOTAL TAX CAPACITY	17,267,130	22,354,366	24,013,101	26,039,991	27,085,590	27,901,158
Tax Capacity Change	4.50%	29.46%	7.42%	8.44%	4.02%	3.01%
TAX RATE ON TAX CAPACITY	46.158%	41.301%	44.666%	48.089%	48.059%	48.432%
TAX RATE % CHANGE	0.49%	-4.86%	3.36%	3.42%	-0.03%	0.37%
Average Valued Home	\$ 334,400	\$ 418,500	\$ 426,000	\$ 443,040	\$ 460,762	\$ 474,584
Average Valued Home with Market Value Exclusion	\$ 327,300	\$ 418,500	\$ 426,000	\$ 443,040	\$ 460,762	\$ 474,584
Estimated Annual City Portion of Tax Bill	\$ 1,510.75	\$ 1,728.43	\$ 1,902.75	\$ 2,130.53	\$ 2,214.39	\$ 2,298.52
Amount Increase or (Decrease)	\$ 98.81	\$ 217.68	\$ 174.32	\$ 227.78	\$ 83.86	\$ 84.13
Percent Increase or (Decrease)	7.00%	14.41%	10.09%	11.97%	3.94%	3.80%



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-271 Adopting the 2024 Final Budget					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):		Consent		Regular Session	X	Discussion Session	
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution No. 2023-271 Adopting 2024 Budget for all General, Enterprise, Special Revenue, Capital Project, and Debt Service Funds							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
The City Council has conducted numerous budget work sessions and held a public information meeting to address the proposed 2024 budgets for all City funds as part of the budgeting process. The attached resolution reflects the proposed final 2024 summary budget of revenues and expenditures. The entire 2024 budget with all line-item details is available on the City's website www.waconia.org and a copy is displayed in the front lobby of City Hall at all times.							
<u>Attachments:</u>							
1. Resolution No. 2023-271 Adopting 2024 Budget 2. Summary Budget Exhibit A							
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. 2023-271**

**RESOLUTION ADOPTING 2024 BUDGET FOR ALL GENERAL, ENTERPRISE,
SPECIAL REVENUE, CAPITAL PROJECT, AND DEBT SERVICE FUNDS**

WHEREAS, the 2024 budget for all City funds has been prepared in the manner prescribed by the Governmental Accounting Standards Board (GASB); and

WHEREAS, Exhibit A is the 2024 Summary Budget for all City funds; and

WHEREAS, additional budget detail is available at Waconia City Hall and on the City's website www.waconia.org ; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Waconia hereby adopts the 2024 budgets for all City funds including General, Enterprise, Special Revenue, Capital Project, and Debt Service Funds.

Adopted by the City Council of the City of Waconia this 18th day of December, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

Exhibit A

City of Waconia - 2024 Operating Budget Summary

By Division, Revenues vs Expenditures

All Funds

			Expenses	Revenues	Net
Administrative Services	Administration	101-411 Administration	(833,359)	8,370,901	7,537,542
	Central Facilities	101-445 Central Facilities	(407,675)	90,972	(316,703)
	Finance	101-412 Finance	(790,356)	87,500	(702,856)
	Technology	101-413 Technology	(586,294)		(586,294)
	Total Administrative Services		(2,617,684)	8,549,373	5,931,689
Community Development	Building Inspections	101-425 Building Inspections	(200,700)	687,000	486,300
	Economic Development	101-415 Economic Development	(30,000)	35,000	5,000
		202-415 Revolving Loan	(6,750)	42,010	35,260
	Planning	101-416 Planning	(518,981)	15,800	(503,181)
	Total Community Development		(756,431)	779,810	23,379
Culture & Recreation	Recreation - General	101-443 Recreation	(81,633)	9,800	(71,833)
	Recreation - Ice Arena	231-443 Safari Island	(1,290,454)	1,345,751	55,297
		678-443 Ice Arena	(677,275)	629,150	(48,125)
	Total Culture & Recreation		(2,049,362)	1,984,701	(64,661)
Non-Departmental	Non Departmental	101-000 Transfers	(2,049,275)	317,200	(1,732,075)
		103-000 PIR	(10,439,914)	7,624,396	(2,815,518)
		105-000 Capital Equipment	(1,281,800)	445,000	(836,800)
		107-000 PEG	(12,740)	5,600	(7,140)
		219-000 Coronavirus Relief	(408,343)	408,343	
		301-000 2016 Lease Agreement Bond	(135,572)	116,880	(18,692)
		303-000 PIR Debt	(398,950)	408,556	9,606
		304-000 2014A GO Bond	(159,100)	66,044	(93,056)
		305-000 2015A GO Bond	(681,400)	681,578	178
		306-000 2016A GO Bond	(535,500)	527,504	(7,996)
		307-000 2017A GO Bond	(876,400)	603,928	(272,472)
		308-000 2018A GO Bond	(115,600)	111,941	(3,659)
		309-000 2019A GO Bond	(286,575)	292,573	5,998
		310-000 2020A GO Bond	(322,000)	313,533	(8,467)
		311-000 2021A GO Bond	(373,400)	387,600	14,200
		312-000 2022A GO Bond	(849,300)	912,735	63,435
		313-000 2023A GO Bond	(149,642)	363,388	213,746
		378-000 Ice Arena Debt	(430,049)	405,000	(25,049)
		410-000 TIF 1 Workforce Housing	(300)	300	
		411-000 TIF 2 Auburn Meadows	(158,225)	176,000	17,775
		412-000 TIF 3 Cherry Street	(525)		(525)
		413-000 TIF 4 Pine Business Park	(525)		(525)
		414-000 TIF 5 Olive South	(19,525)	21,100	1,575

City of Waconia - 2024 Operating Budget Summary

By Division, Revenues vs Expenditures

All Funds

			Expenses	Revenues	Net	
Public Safety		420-000 Clearwater Shores HIA	(9,213)	53,021	43,808	
		701-000 Lodging Tax	(44,200)	44,200		
		Total Non-Departmental	(19,738,073)	14,286,420	(5,451,653)	
	Community Safety	101-427 Community Safety	(920)		(920)	
	Fire	101-423 Fire Dept	(755,009)	161,910	(593,099)	
	Law Enforcement	101-421 Law Enforcement	(1,298,228)	295,455	(1,002,773)	
		Total Public Safety	(2,054,157)	457,365	(1,596,792)	
	Public Services	Public Services-Parks	101-441 Parks	(1,058,817)	8,700	(1,050,117)
			210-441 Park Dedication		1,000	1,000
		Public Services-Streets	101-431 Streets	(2,139,008)	215,306	(1,923,702)
Utilities-Sewer		602-433 Utilities-Sewer	(7,664,137)	6,922,638	(741,499)	
Utilities-Stormwater		655-433 Utilities-Storm Water	(3,308,449)	2,869,554	(438,895)	
Utilities-Streetlights		668-433 Utilities-Streetlight	(522,402)	318,568	(203,834)	
Utilities-Water		601-433 Utilities - Water	(4,108,734)	3,664,363	(444,371)	
		Total Public Services	(18,801,547)	14,000,129	(4,801,418)	
		Total	(46,017,254)	40,057,798	(5,959,456)	



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:	December 18, 2023
Item Name:	Adopt Resolution No. 2023-272 Approving Conditional Use Permit Amendment - 9460 County Road 10 East
Originating Department:	Community Development
Presented by:	Lane Braaten
Previous Council Action (if any):	February 16, 2021 - Approval of a Conditional Use Permit to allow a Garden Center Use via Resolution 2021-50

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 No. 2023-272 approving the proposed amendment to the Conditional Use Permit (CUP) for 9460 County Road 10 East (PID# 750191130).

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

BACKGROUND

Applicant: Brianna Lovett/BCL Holdings, LLC
Owner: Brianna Lovett/BCL Holdings, LLC
Address(es): 9460 County Road 10 East
PID# 750191130
Existing Zoning Districts: R-3, Medium Density Residential District

REQUEST

The applicant, Brianna Lovett, has submitted an application to amend the Conditional Use Permit (CUP) for 9460 County Road 10 East. Specifically, the applicant is requesting an extension to connect to city utilities (sewer/water), an extension on the required paving/improvement of the gravel surfaces, and an amendment to the existing commercial use of the property.

HISTORY

Lovett Planters is the existing use on the property, which was formerly doing business as Lovett Garden Home and Floral. The applicant received approval of a Conditional Use Permit for the garden center use via Resolution 2021-50 on February 16th, 2021.

APPLICABLE ORDINANCE PROVISIONS:

1. Section 900.05 - District Regulations, Subd. 2.C - R-3, Medium Density Residential District
2. Section 900.07 - Landscaping and Fencing
3. Section 900.08 - Performance Standards
4. Section 900.09 - Off-Street Parking, Loading, and Access Regulations
5. Section 900.10 - Sign Regulations
6. Section 900.11 - Uses Permitted by Conditional Use Permit (CUP) and Interim Use Permit (IUP)

APPLICABLE ORDINANCE DEFINITIONS:

Conditional Use: Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning use district, which for the respective conduct or performance in such designated use districts may require reasonable, but special, peculiar, unusual or extraordinary limitations, facilities, plans, structures, thoroughfares, conditions, modification or regulations in such use district for the promotion or preservation of the general public welfare, health, convenience, or safety therein and in the County, and therefore may be permitted in such use district only by a Conditional Use Permit (CUP).

CONDITIONAL USE PERMIT REVIEW

Unless carefully controlled and monitored, some uses have the potential to have a deleterious effect on adjacent properties and the community as a whole. They must therefore meet and maintain a higher standard of quality to insure land use and environmental compatibility. Uses possessing unique and potentially detrimental characteristics may be authorized in certain zoning districts by issuance of a CUP where certain conditions are met.

GENERAL REQUIREMENTS/FINDINGS

Before a CUP shall be issued, the City Council and Planning Commission shall find that all of the following requirements are met:

1. *The use does not have an undue adverse impact on the public health, welfare or safety of the neighborhood or the City.*
2. *The use is consistent with the goals, objectives and policies of the City's Comprehensive Plan.*
3. *The use is consistent with the intent of the City Ordinances.*
4. *The use is adequately served by public facilities and services and will not create excessive demands for additional public services.*
5. *The use complies with the performance standards specified in Section 900.08 of this Ordinance.*
6. *The use will not result in the loss of solar access, significant natural, scenic, or historical features.*

ZONING

The subject parcel is zoned R-3, Medium Density Residential District. Garden Centers are a conditional use in said district subject to the requirements of Section 900.11, which are identified below in italics.

Garden Center Use subject to the following:

- a. *The facility shall have direct access to a collector or arterial street as identified in the Comprehensive Plan.*
- b. *Vehicular access to any such site shall not pass through any existing or proposed residential neighborhoods.*
- c. *Minimum parcel size shall be 5 acres.*
- d. *Off-street parking facilities shall be provided consistent with Section 900.09 of the Code.*
- e. *Light sources on the site shall be screened and directed away from residential areas.*
- f. *Landscaping and screening requirements shall be consistent with the standards identified in Section 900.07 for the B-1, Highway Business District.*
- g. *Signage shall be allowed consistent with Section 900.10 and the garden center use shall be allowed signage rights consistent with the B-1, Highway Business District standards.*
- h. *Hours of operation shall be subject to the City Council's approval and memorialized in the resolution approving the conditional use permit. Any change to the approved hours shall require an amendment to the conditional use permit, which may be granted or denied in the City Council's discretion.*
- i. *The use shall be in compliance with the City's nuisance standards identified in Section 900.08 of the Code.*
- j. *The property shall be located within the City Limits and connected to City utility services.*

CONDITIONAL USE PERMIT ANALYSIS:

1. The City Council approved Ordinance No. 735 on December 21st, 2020, which approved and identified garden center uses as a conditional use in the R-3, Medium Density Residential District if the ten (10) conditions identified in said ordinance could be met by the applicant and the proposed location. The ten conditions are found in Section 900.11, Subd. 1.B of the City Code and identified above. The Conditional Use Permit section of the City Code also identifies six general requirements and findings to consider when reviewing a CUP, which are also stated above.
2. The following items are currently outstanding based on the previous CUP approval: a. Connection to city utilities (i.e. sewer and water) within 3 years of annexation. Annexation was complete on September 16th, 2021, and therefore connection to utilities is currently required by September 16, 2024, and b. Improvement of the current gravel drive and parking area to bituminous or concrete within 5 years of the CUP approval date of February 16th, 2021.
3. The applicant is requesting an extension to connection to city services as follows: a. Connection to city sewer and water by September 16th, 2034, which is ten years from their currently required date.

4. The current conditions of approval require the applicant to improve the existing gravel drive and parking area to bituminous or concrete by February 16th, 2026. The applicant is requesting an extension to allow this work to be completed no later than February 16th, 2036.
5. Section 900.09, Off-Street Parking, Loading and Access Regulations requires all areas intended to be utilized for parking space and driveways to be surfaced with bituminous or concrete to control dust and drainage.
6. The original approval for the property assumed retail garden center use. Based on the application and some email conversations with the applicant, the garden center retail has now morphed into a planter business. The City Council should review the use with the applicant to ensure that the existing use is consistent with intent of the City Code.
7. See attached CUP resolution of approval regarding the initial findings and conditions associated with the garden center use at 9460 County Road 10 East (Resolution 2021-50).

SEWER AVAILABILITY CHARGE (SAC) AND CITY TRUNK FEES

New construction, a new business, a change in location or change in the use of space in a way that creates more potential demand on the wastewater system will require submission to the Metropolitan Council for a Sewer Availability Charge (SAC) determination. The SAC determination made by the Metropolitan Council informs the City sewer and water trunk fees associated with the potential development, redevelopment and/or remodeling of the subject property, location, or business. City Code requires that for every SAC unit determined by the Metropolitan Council, the project will require the payment of one City sewer trunk fee and one City water trunk fee. The SAC and City trunk fees are included below for convenience.

SAC Charge	\$2,485 per SAC unit determined by the Metropolitan Council
Sewer Trunk Fee	\$3,300 per SAC unit determined by the Metropolitan Council
Water Trunk Fee	\$5,100 per SAC unit determined by the Metropolitan Council

The City Council, at their regular meeting on December 4th, 2023, approved an update the City fee schedule which includes an increase to the Sewer Trunk Fee (\$3,600 per unit) in 2024. Unless otherwise approved the property owner/applicant would be required to pay the SAC and trunk fees established at the time of connection to City sewer and water.

RECOMMENDATION

The Planning Commission, at their regular meetings on October 12th, 2023 and December 7th, 2023, held the required public hearing, reviewed all pertinent information regarding the application and recommended approval of the proposed amendment to the Conditional Use Permit for 9460 County Road 10 East via a 4-1 vote.

If the City Council chooses to approve the CUP amendment, the Planning Commission and city staff would recommend the approval upon the following conditions:

1. The proposed improvements shall be completed as approved and as conditionally revised/amended by the Planning Commission and the City Council.
2. The applicant shall connect to City utilities (i.e. sanitary sewer and water) by February 16th, 2026. The property owner shall be responsible for all costs regarding the necessary infrastructure and the required Metropolitan Council SAC fee and associated City Water Trunk fee and Sewer Trunk fee.
3. To date the City of Waconia has incurred \$4,000 in utility expenses associated with the subject parcel to extend services from the neighboring cul-de-sac. The applicant shall pay the outstanding \$4,000 balance within 90 days of the Conditional Use Permit amendment approval.
4. Except as modified by this approval the applicant shall conform to the conditions stated in Resolution 2021-50.

Please note that the proposed conditions, motion and second, were approved before staff could have further

conversation regarding the February 16th, 2026 recommended extension date. This will be the middle of winter and therefore, if the Council approves an extension for the connection of city services, the Council should consider a later spring/early summer date to allow the construction work to be done at an advantageous time. Staff has included June 1st, 2026 as a possible date to consider. This can be revised at the direction of the Council.

Attachments:

1. [Resolution No. 2023-272 Approving Amendment to the Conditional Use Permit for Garden Center Use](#)
2. [Location Map 9460 County Road 10 East.pdf](#)
3. [CUP Amendment Application Lovett.pdf](#)
4. [Applicant Narrative](#)
5. [Public Hearing Notice](#)
6. [Certificate of Survey 9460 County Road 10 East](#)
7. [ALTA Survey](#)
8. [Resolution No 2021-050 Conditional Use Permit](#)

FINANCIAL IMPLICATIONS:

Funding Sources & Uses:

Budget Information:

_____ Budgeted

_____ Non Budgeted

_____ Amendment Required

ADVISORY BOARD RECOMMENDATIONS:

Planning Commission	
Parks and Recreation Board	
Safari Island Advisory Board	
Other	

**CITY OF WACONIA
RESOLUTION 2023-272**

**RESOLUTION APPROVING AN AMENDMENT
TO THE CONDITIONAL USE PERMIT
FOR GARDEN CENTER USE**

WHEREAS, Brianna Lovett (the “**Applicant**”) has submitted an amendment to the existing Conditional Use Permit associated with the property located at 9460 County Road 10 East (the “**Property**”); and

WHEREAS, the Applicant has requested an amendment to the Conditional Use Permit (CUP) to extend the deadline for connection to city sewer and water, extend the date by which the driveway and parking areas are required to be improved to concrete or bituminous, and to redescribe the existing commercial use of the property; and

WHEREAS, a public hearing regarding the Applicant’s request for an amendment to the Conditional Use Permit was conducted by the City’s Planning Commission at its regular meetings on October 12th, 2023 and December 7th, 2023; and

WHEREAS, at the public hearing the Planning Commission considered comments from the Applicant, City staff and members of the public; and

WHEREAS, the City’s Planning Commission, via a 4-1 vote, recommended approval of the Conditional Use Permit amendment based on the following findings of fact:

1. The Property is currently home to a garden center use/planter business use and continuation of the use will not have an adverse impact on the public health, welfare or safety of the neighborhood, rather it may serve as an asset as the residential properties develop adjacent to said property.
2. The CUP is consistent with the goals, objectives and policies of the Comprehensive Plan as the use will allow for efficient and cost-effective perimeter growth.
3. Garden center use is allowed as a conditional use and the current use is consistent with the zoning district as all required conditions identified in Section 900.11 have been met.
4. The property shall be served by public facilities by June 1st, 2026.
5. The amendment is consistent with the performance standards stated in Section 900.08.
6. The amendment will not result in the loss of solar access, significant natural, scenic or historical features.

WHEREAS, the City’s Planning Commission recommends approval of the Conditional Use Permit application with the following conditions:

1. The proposed improvements shall be completed as approved and as conditionally revised/amended by the Planning Commission and the City Council.
2. The applicant shall connect to City utilities (i.e. sanitary sewer and water) by June 1st, 2026. The property owner shall be responsible for all costs regarding the necessary infrastructure and the required Metropolitan Council SAC fee and associated City Water Trunk fee and Sewer Trunk fee.
3. To date the City of Waconia has incurred \$4,000 in utility expenses associated with the subject parcel to extend services from the neighboring cul-de-sac. The applicant shall pay the outstanding \$4,000 balance within 90 days of the Conditional Use Permit amendment approval.
4. Except as modified by this approval the applicant shall conform to the conditions stated in Resolution 2021-50.

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

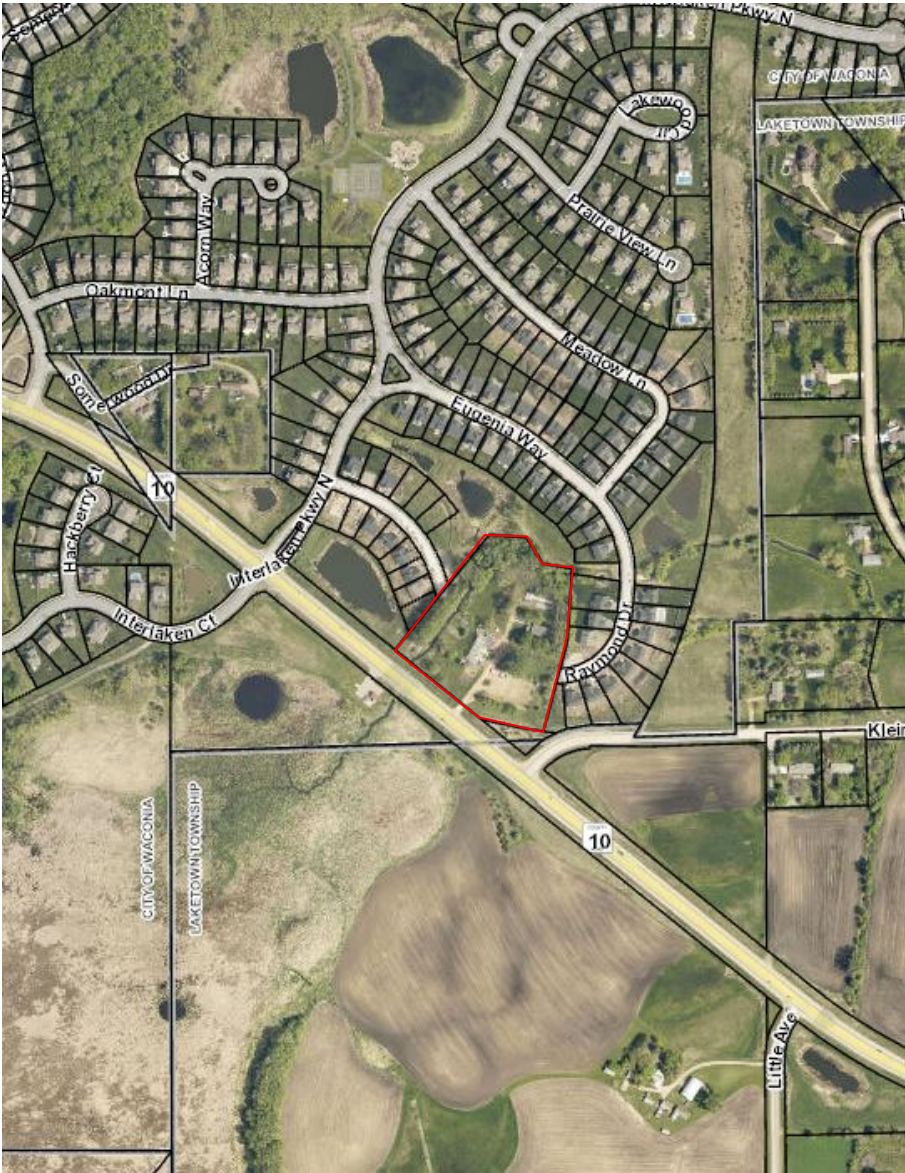
1. The findings of the City's Planning Commission are hereby incorporated as findings of the City Council.
2. An amendment to the Conditional Use Permit for the garden center/planter use is hereby approved, subject to the findings and conditions set forth in this resolution.
3. The Conditional Use Permit granted by this resolution shall remain in effect only so long as the conditions set forth in this resolution are observed and the applicable provisions of the Waconia Code are met.
4. The City Administrator shall, at the Applicant's expense, record a certified copy of this Resolution with the Carver County Recorder and/or Registrar of Titles, as appropriate, against the Property.

Adopted by the City Council of the City of Waconia this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jackie Schulze, City Clerk

LOCATION MAP—9460 COUNTY ROAD 10 EAST





CITY OF WACONIA
201 South Vine Street
Waconia, MN 55387
Phone: (952) 442-2184 Ext. 2
Fax (952) 442-2135
www.waconia.org

CONDITIONAL/INTERIM USE PERMIT

APPLICANT INFORMATION

1. Owner's Name: Brianna C. Lovett
2. Address of Property: 9460 County Rd 10 E Waconia, MN 55387
3. Legal Description: Attached Separately
4. Applicant's Name: Brianna C. Lovett
5. Mailing Address: 9460 County Rd 10 E Waconia MN 55387
6. Daytime Phone(s): 952.367.7021
7. Email Address: brianna.lovett@gmail.com

The City will distribute copies & appropriate information to applicant via email

OFFICE USE ONLY

Date Received: 9/4/23

Fee: \$ PD
Receipt #: PD



CITY OF WACONIA
201 South Vine Street
Waconia, MN 55387
Phone: (952) 442-2184 Ext. 2
Fax (952) 442-2135

CONDITIONAL/INTERIM USE PERMIT

1. Present Zoning: R-3
2. Existing use of Property: Residential as well as commercial.
3. Describe Request: I would like an extension for the following:
 - Connection to city water 5-10 years (Sept. 16th 2034).
 - Hard Surface 5-10 years (February 16th 2036).
 - I would like to keep the present zoning until decisions are made.
 - I would also like to keep the garden center building connected to well water. It is better for plants.

THE FOLLOWING INFORMATION MUST BE SUBMITTED IN ORDER TO CONSIDER THE APPLICATION COMPLETE

- ✓ 1. Payment of application fee (\$125 – residential; \$275 – non-residential) and escrow payment of \$500.00 for residential and non-residential applications. Additional consulting review fees may apply, such as civil engineering and legal counsel.
- ✓ 2. Certified survey of property
- ✓ 3. Scaled plot plan with north arrow and the proposed site showing all site dimensions.
- ✓ 4. All types of proposed uses.
5. Elevation drawings or illustrations indicating the architectural treatment of all proposed buildings and structures.
6. Location and size of all required parking spaces.
7. Landscaping plan including location, size and type of all proposed planting materials.
8. General floor plans of all proposed buildings and structures.
9. Indication of location, size and type of storage facilities for the storage of trash and waste materials.
10. Design layout and size of all proposed signs.
11. Drainage plan of the proposed site.

**Each conditional use or interim use is subject to the requirements of Section 900.11 of the City Zoning Ordinance.

FAILURE to comply with any condition set forth in a Conditional Use or Interim Use permit shall constitute a violation of this Ordinance and shall automatically terminate the permit.

Applicant's Signature: _____

Date: 9/4/2023

Printed Name: _____

Brianna C. Lovett

Further Explanations:

For the time being, I would like to continue to live on the property as well as use the outdoor buildings and spaces to run the container gardening business.

I would like to keep the current zoning on the property even though the retail portion of the garden center is currently closed. Other than that, there are no other changes currently taking place. I do plan on re-opening the garden center or at least selling plants and containers from the property when I have the resources and staff to do so.

Because of the less-than-ideal projected financials, I would like a 5-to-10-year extension on the city water connection as well as the hard surfacing of the parking lot. The garden center did not profit enough to support loans on such costly improvements. I will need more time.

With the water connection extension, I would also like to ask that the garden center building itself be given permission to remain connected to well water. Well water is better for the plants as city water has higher levels of unwanted elements i.e. chlorine etcetera.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Ryan Paul". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

CITY OF WACONIA, MN
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Waconia, MN, will hold a public hearing on October 12th, 2023 at 6:30 p.m., to consider a Conditional Use Permit (CUP) amendment application submitted by Brianna Lovett for the property located at 9460 County Road 10 East (PID# 750191130).

The applicant is requesting an amendment to the garden center Conditional Use Permit. Specifically, the applicant is requesting an extension on connection to city utilities, paving of the existing gravel surfaces on the subject parcel and revised use of the property, which would not include a retail element.

Pertinent information pertaining to this request is available at City Hall. Interested persons may submit written or oral comments pertaining to this matter any time prior to the hearing, or at the hearing on Thursday, October 12th, 2023. Written comments will be distributed to the Planning Commission for review and consideration. Please submit written comments by mail, email or in person as follows:

Mail/in person: Attention: Lane L. Braaten, 201 South Vine Street, Waconia, MN 55387
Email: lbraaten@waconia.org

By: WACONIA PLANNING COMMISSION

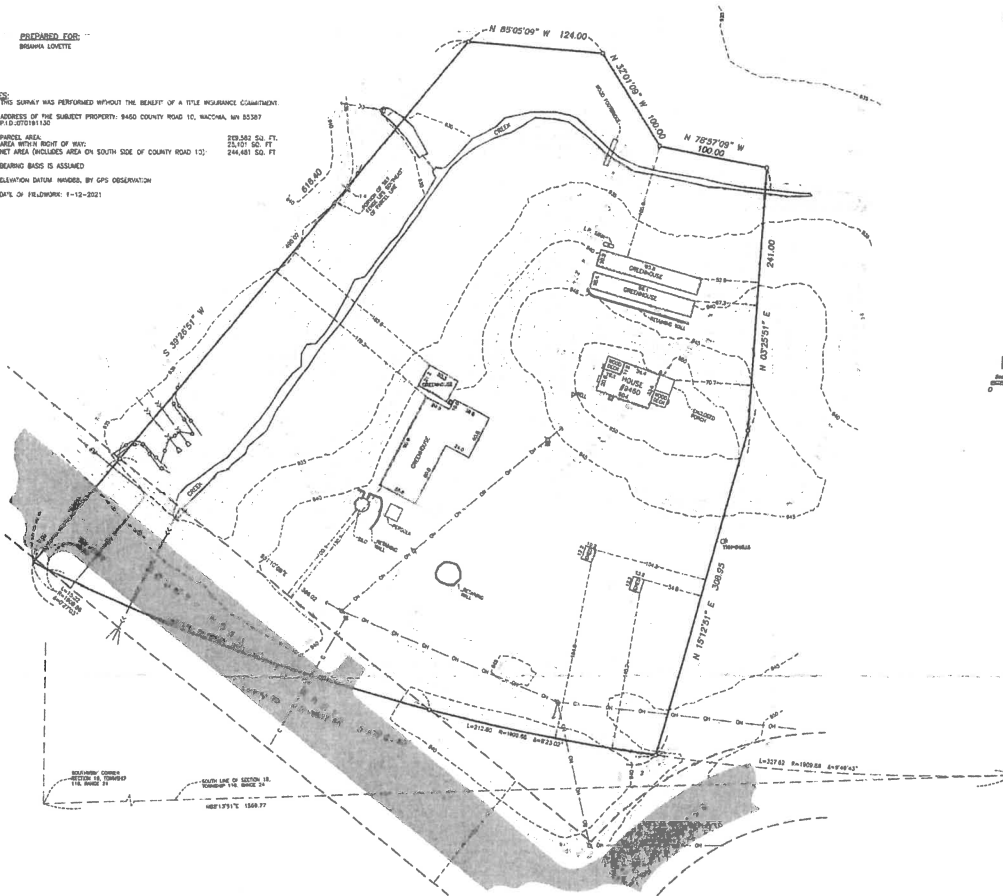
ATTEST: Lane L. Braaten, Community Development Director

(Published in the September 28th, 2023 Waconia Patriot newspaper)

CERTIFICATE OF SURVEY

PREPARED FOR:
BRIANNA LOVETTE

- NOTES:
- 1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE INSURANCE COMMITMENT.
 - 2) ADDRESS OF THE SUBJECT PROPERTY: 8400 COUNTY ROAD 10, WACONIA, MN 55387
P.L.D. 07/01/11/12
 - 3) PARCEL AREA:
AREA WITHIN RIGHT OF WAY: 229,241 SQ. FT.
NET AREA (EXCLUDES AREA ON SOUTH SIDE OF COUNTY ROAD 10): 224,737 SQ. FT.
244,481 SQ. FT.
 - 4) BEARING BARS IS ASSUMED.
 - 5) ELEVATION DATUM: NAD83, BY GPS OBSERVATION.
 - 6) DATE OF FIELDWORK: 1-13-2021



LEGAL DESCRIPTION:

That part of the Southwest Quarter of Section 10, Township 116, Range 24, Carver County, Minnesota described as follows:

Commencing at the southeast corner of said Section 10; thence on an assumed bearing of North 89 degrees 46 minutes 09 seconds East along the south line of said Southwest Quarter of the Southwest Quarter 1,869.77 feet to a point of tangency, thence Northwesterly along a 3 degree 08 minutes 00 second curve concave to the Northwest, for each length of 327.82 feet; the chord of said curve bears North 85 degrees 19 minutes 07 seconds West from said point and is 217.22 feet in length to the point of beginning of the tract to be described, thence North 16 degrees 43 minutes 00 seconds East 308.05 feet; thence North 4 degrees 19 minutes 00 seconds East 241.00 feet; thence North 77 degrees 23 minutes 00 seconds West 180.00 feet; thence North 30 degrees 29 minutes 00 seconds West 180.00 feet; thence North 83 degrees 23 minutes 00 seconds West 134.00 feet; thence South 49 degrees 59 minutes 00 seconds West 618.40 feet more or less to the intersection with the previously described 3 degree 08 minutes 00 second curve; thence Southwesterly along said 3 degree 08 minutes 00 second curve, for each length of 600.98 feet; the chord of said curve bears North 71 degrees 23 minutes 23 seconds East from said point and chord length is 593.31 feet and said curve terminating on the originally described point of beginning.

LEGEND:

- SET BEAM
- SET BEAM
- POWER POLE (WITH DAY METER)
- FINE MASONRY
- GATE VALVE
- COMMUNICATIONS FIDUCIAL
- ELECTRIC METER
- GAS METER
- OVERHEAD UTILITY LINE
- COMMUNICATIONS LINE
- STORM SEWER LINE
- SANITARY SEWER FIDUCIAL
- ALT. FIDUCIAL
- CONCRETE SURFACE
- BITUMINOUS SURFACE
- GRAVEL SURFACE

CERTIFICATION:

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

SIGNED: *[Signature]* DATE: 1-13-2021

FOR A SURVEYOR: *[Signature]* DATE: 1-13-2021

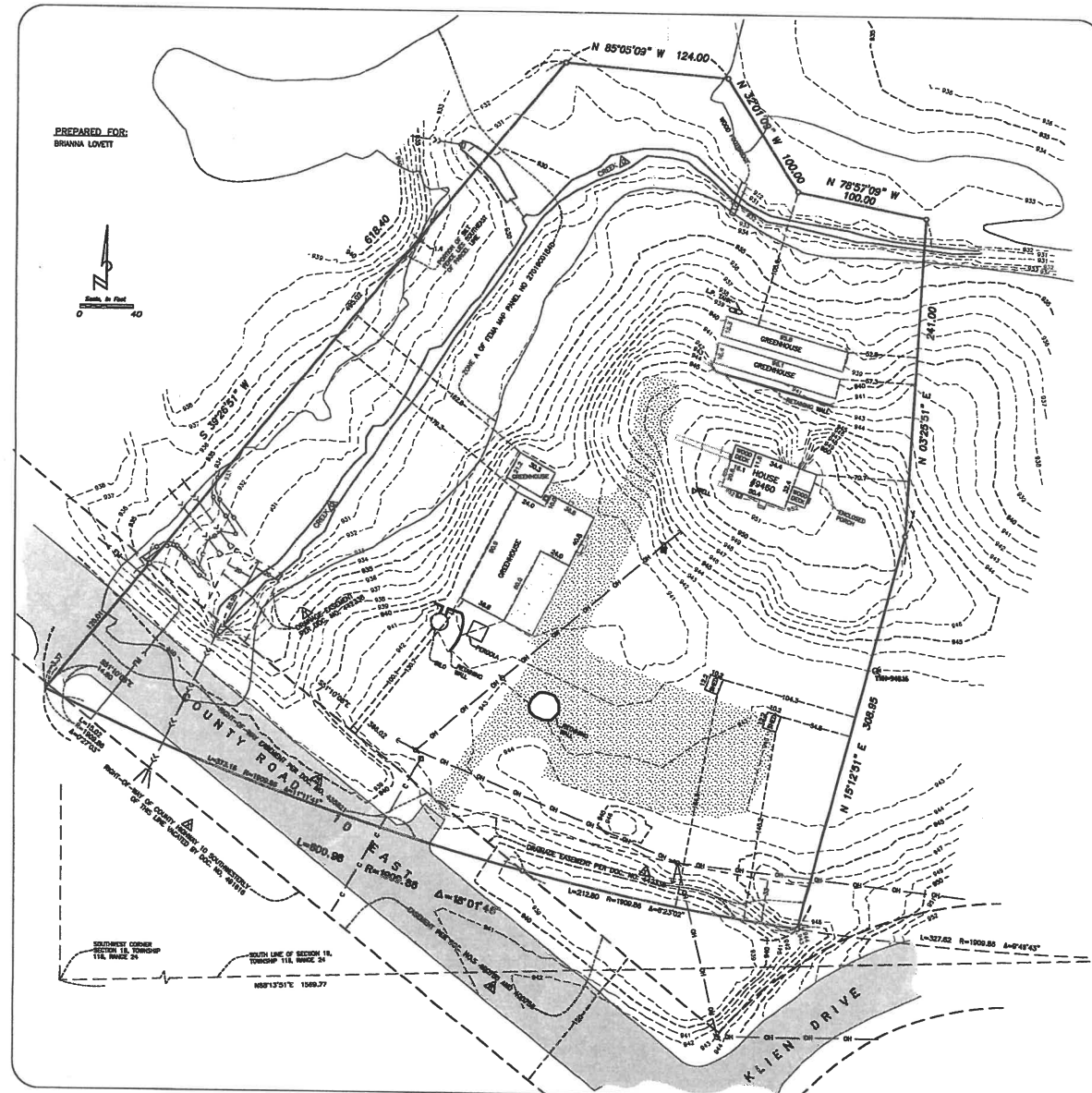
FOR A SURVEYOR: *[Signature]* DATE: 1-13-2021

VAN NESTE SURVEYING
PROFESSIONAL SURVEYING SERVICES
4050 102ND AVE. RD. UNIT 130 SPRING PARK, MN 55381
503-554-3065 VANNESTE.SURVEYING.COM

LEGAL DESCRIPTION PER OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT NO. 2113656:

ALTA / NSPS LAND TITLE SURVEY

THAT PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 116, RANGE 24, CARVER COUNTY, MINNESOTA DESCRIBED AS FOLLOWS:
 COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 19, THENCE ON AN ASSUMED BEARING OF NORTH 85 DEGREES 45 MINUTES 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER 1.580.77 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG A 3 DEGREE 00 MINUTE 00 SECOND CURVE CONCAVE TO THE NORTHEAST, AN ARCH LENGTH OF 327.82 FEET; THE CHORD OF SAID CURVE BEARS NORTH 85 DEGREES 18 MINUTES 07 SECONDS WEST FROM SAID POINT AND IS 327.22 FEET IN LENGTH TO THE POINT OF BEGINNING OF THE TRACT TO BE DESCRIBED; THENCE NORTH 16 DEGREES 45 MINUTES 00 SECONDS EAST 308.85 FEET; THENCE NORTH 4 DEGREES 50 MINUTES 00 SECONDS EAST 241.00 FEET; THENCE NORTH 77 DEGREES 25 MINUTES 00 SECONDS WEST 100.00 FEET; THENCE NORTH 30 DEGREES 59 MINUTES 00 SECONDS WEST 100.00 FEET; THENCE NORTH 63 DEGREES 53 MINUTES 00 SECONDS WEST 124.00 FEET; THENCE SOUTH 40 DEGREES 50 MINUTES 00 SECONDS WEST 618.40 FEET MORE OR LESS TO THE INTERSECTION WITH THE PREVIOUSLY DESCRIBED 3 DEGREES 00 MINUTE 00 SECOND CURVE; THENCE SOUTHWESTERLY ALONG SAID 3 DEGREE 00 MINUTE 00 SECOND CURVE, AN ARCH LENGTH OF 800.98 FEET; THE CHORD OF SAID CURVE BEARS SOUTH 71 DEGREES 23 MINUTES 25 SECONDS EAST FROM SAID POINT AND CHORD LENGTH IS 585.51 FEET AND SAID CURVE TERMINATING ON THE ORIGINALLY DESCRIBED POINT OF BEGINNING.



GENERAL NOTES:

- 1) OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT NO. 2113656, EFFECTIVE DATE NOVEMBER 24, 2020, AT 12:00 AM WAS RELEASD FOR ALL MATTERS OF RECORD FOR THE SURVEY.
- 2) DATE OF FIELDWORK: 1-12-2021
- 3) BEARING BASIS IS ASSUMED.
- 4) THE TITLE TO SUBJECT PARCEL IS VESTED IN: RANDY K. HAMMER AND AYS L. HAMMER, AS JOINT TENANTS.

TABLE A REQUIREMENTS NOTES:

- NOTES ARE NUMBERED AS THEY APPEAR IN TABLE A OF 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS FOR CLARITY.
- 1) SURVEY MONUMENTS HAVE BEEN FOUND OR SET AT EACH CORNER OF THE PARCEL, AS SHOWN ON MAP.
 - 2) ADDRESS OF THE SUBJECT PARCEL: 6460 COUNTY ROAD 10, WACONIA, MN 55387
 - 3) SUBJECT PARCEL LIES PARTIALLY WITHIN ZONE X AND PARTIALLY WITHIN ZONE A OF FEMA MAP PANEL NO. 270190314M0, EFFECTIVE ON 12/21/2018. THE APPROXIMATE BOUNDARIES OF ZONE A ARE AS SHOWN ON MAP
 - 4) PARCEL AREA:
 AREA WITHIN RIGHT OF WAY: 259,382 SQ. FT.
 NET AREA (EXCLUDES AREA ON SOUTH SIDE OF COUNTY ROAD 10): 244,481 SQ. FT.
 - 5) GROUND ELEVATIONS ARE SHOWN BY 1 FOOT CONTOURS ON THE NAVD83 DATUM, ESTABLISHED BY GPS OBSERVATION
 - 6A) SUBJECT PARCEL IS ZONED MEDIUM DENSITY RESIDENTIAL, ZONING DISTRICT R-3 BY THE CITY OF WACONIA. NO FURTHER INFORMATION WAS FURNISHED BY THE TITLE INSURER.
 - 7A) EXTERIOR DIMENSIONS OF BUILDINGS ARE AS SHOWN ON MAP
 - 8) SUBSTANTIAL IMPROVEMENTS TO THE SUBJECT PARCEL ARE AS SHOWN ON MAP.
 - 9) THERE ARE NO STRIPPED PARKING STALLS WITHIN THE SUBJECT PARCEL.
 - 13) NAMES OF ADJACENT OWNERS AS SHOWN ON MAP ARE PER CARVER COUNTY TAX DATABASE.

LEGEND:

- SET REBAR
- W/CAF #44100
- POWER POLE (WITH GUY ANCHOR)
- FIRE HYDRANT
- GATE VALVE
- COMMUNICATIONS PEDESTAL
- ELECTRIC METER
- GAS METER

- OVERHEAD UTILITY LINE
- COMMUNICATIONS LINE
- STORM SEWER LINE
- SANITARY SEWER FORCEMAIN
- SALT FENCE

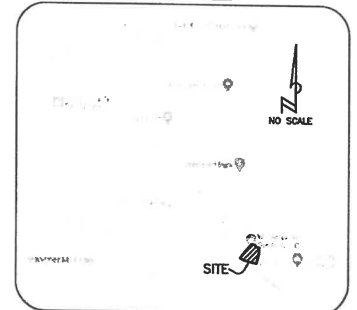
- CONCRETE SURFACE
- BITUMINOUS SURFACE
- GRAVEL SURFACE

SCHEDULE B - SECTION II EXCEPTION NOTES:

NOTES ARE NUMBERED AS THEY APPEAR IN THE REFERENCED TITLE COMMITMENT FOR CLARITY. ITEM NUMBERS ENCLOSED IN A TRIANGLE ARE SHOWN ON MAP AND LABELED WITH THE ITEM NUMBER.

- A NO EVIDENCE OF DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS, IF ANY, "CREATED, FIRST APPEARING IN THE PUBLIC RECORDS OR ATTACHING SUBSEQUENT TO THE EFFECTIVE DATE, BUT PRIOR TO THE DATE THE PROPOSED INSURED ACQUIRES FOR VALUE OF RECORD THE ESTATE OR INTEREST OR MORTGAGE THEREON COVERED BY THIS COMMITMENT" WAS PROVIDED, AND THEREFORE NOT SHOWN ON THE MAP.
- B-E THESE ITEMS HAVE BEEN DELETED FROM SCHEDULE B OF THE TITLE COMMITMENT AND ARE NOT SHOWN ON THE MAP.
- F "OTHER FACTS WHICH A CORRECT SURVEY OF THE PREMISES WOULD SHOW" ARE AS SHOWN ON MAP.
- G-H THERE IS NO VISIBLE EVIDENCE OF RIGHTS OR CLAIMS OF PARTIES IN POSSESSION NOT SHOWN BY THE PUBLIC RECORDS, NOR OF ANY EASEMENTS, OR CLAIMS OF EASEMENT, NOT SHOWN BY THE PUBLIC RECORDS. NONE ARE SHOWN ON MAP.
- I-P THESE ITEMS ARE NOT SURVEY RELATED AND ARE NOT SHOWN ON MAP.
- △ RIGHTS OF THE PUBLIC AND OF THE STATE IN AND TO THAT PART OF THE PREMISES LYING BELOW THE NATURAL HIGH WATER MARK OF THE CREEK. RIPARIAN RIGHTS ARE NEITHER GUARANTEED NOR INSURED. CREEK LOCATION IS AS SHOWN ON MAP.
- △ AN EASEMENT FOR COUNTY STATE AID HIGHWAY NO. 10 AS CONTAINED IN DOCUMENT NOS. 400755 AND 400756 AS PER ACTUAL USE, AS SHOWN ON MAP.
- △ AN EASEMENT FOR PUBLIC RIGHT OF WAY AND DRAINAGE PURPOSES IN FAVOR OF CARVER COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF MINNESOTA, DATED JANUARY 11, 2006, FILED MARCH 1, 2006, AS DOC. NO. 4435621. AS SHOWN ON MAP.
- △ AN EASEMENT FOR DRAINAGE PURPOSES IN FAVOR OF CARVER COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF MINNESOTA, DATED JANUARY 11, 2006, AS DOC. NO. 4435336. AS SHOWN ON MAP.
- U DEVELOPERS AGREEMENT FOR INTERLAKEN AND THE FINAL PLAT OF INTERLAKEN, DATED JULY 13, 2007, FILED JULY 13, 2007, AS DOC. NO. 4467963. THIS DOCUMENT DOES NOT AFFECT THE SUBJECT PARCEL AND IS NOT PLOTTED ON THE MAP.
- V DEVELOPERS AGREEMENT FOR INTERLAKEN 4TH ADDITION, DATED JULY 13, 2007, FILED JULY 13, 2007, AS DOC. NO. 447964. THIS DOCUMENT DOES NOT AFFECT THE SUBJECT PARCEL AND IS NOT PLOTTED ON THE MAP.
- W DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS DATED JULY 26, 2007, FILED AUGUST 9, 2007, AS DOC. NO. 4489004. THIS DOCUMENT DOES NOT AFFECT THE SUBJECT PARCEL AND IS NOT PLOTTED ON THE MAP.
- △ VACATION OF A PORTION OF COUNTY HWY 10, DATED NOVEMBER 4, 2008, FILED NOVEMBER 12, 2008, AS DOC. NO. 491616. NORTHEASTERLY LOT 16 OF WACONIA AS SHOWN ON MAP.
- Y RESOLUTION APPROVING AN INTERIM USE PERMIT FOR A GARDEN CENTER AND AGREEMENT FOR GARDEN CENTER DATED --- FILED APRIL 22, 2010 AS DOCUMENT NO. 4519007. THIS DOCUMENT IS NOT SURVEY RELATED AND IS NOT PLOTTED ON THE MAP.
- Z TEMPORARY SLOPE EASEMENT FOR HIGHWAY, UTILITY, AND OTHER RIGHT OF WAY CONSTRUCTION PURPOSES IN FAVOR OF CARVER COUNTY DATED JANUARY 11, 2006. THIS DOCUMENT WAS NOT FURNISHED BY THE TITLE INSURER, AND IS NOT PLOTTED ON THE MAP.
- AA NO EASEMENT DOCUMENT WAS FURNISHED FOR THIS ITEM AND IT IS NOT PLOTTED ON THE MAP.
- AB-AD THESE ITEMS ARE NOT SURVEY RELATED AND ARE NOT PLOTTED ON MAP.

VICINITY MAP:



CERTIFICATION:

I HEREBY CERTIFY TO: RANDY K. HAMMER AND AYS L. HAMMER, OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, TITLE MARK, LLC, AND BRIANNA LOVETT, THAT THIS MAP OR PLAT AND THE SURVEY OR WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 5, 6A, 7A, 8, 9, AND 13 OF TABLE "A"

SIGNED: _____
 Title: W. Van Nette, Minnesota Professional Surveyor #21155

DATE: 2-18-2021
 SCALE: 1"=40 FEET

VAN NESTE SURVEYING
 PROFESSIONAL SURVEYING SERVICES

4400 WEST AVE. RD. UNIT 130, SPRING PARK, MN 55384
 (652) 688-3055 VANNESTESURVEYING.COM



SHEET 1 OF 1

**CITY OF WACONIA
RESOLUTION 2021-50**

**RESOLUTION APPROVING A CONDITIONAL USE PERMIT
FOR GARDEN CENTER USE**

WHEREAS, Brianna Lovett (the “**Applicant**”) has submitted a Conditional Use Permit application to the City of Waconia (the “**City**”) pursuant to Sections 900.11 and 900.12 of the Waconia City Code; and

WHEREAS, the subject property is identified as PID# 070191130 and located at 9460 County Road 10 East (the “**Property**”); and

WHEREAS, the Applicant has requested a Conditional Use Permit (CUP) to allow a garden center use on the Property; and

WHEREAS, a public hearing regarding the Applicant’s request for a Conditional Use Permit was conducted by the City’s Planning Commission at its regular meeting on February 4th, 2021, which was held via Zoom; and

WHEREAS, at the public hearing the Planning Commission considered comments from the Applicant, City staff and members of the public; and

WHEREAS, the City’s Planning Commission, via a 4-0 vote, recommended approval of the Conditional Use Permit application based on the following findings of fact:

1. The Property is currently home to a garden center use and continuation of the use will not have an adverse impact on the public health, welfare or safety of the neighborhood, rather it may serve as an asset as the residential properties develop adjacent to said property.
2. The CUP is consistent with the goals, objectives and policies of the Comprehensive Plan as the use will allow for efficient and cost-effective perimeter growth.
3. A garden center use is allowed as a conditional use and the use is consistent with the zoning district as all required conditions identified in Section 900.11 have been met.
4. The property is currently located outside of the City Limits but shall be served by public facilities within 3 years of annexation.
5. The project is consistent with the performance standards stated in Section 900.08.
6. The project will not result in the loss of solar access, significant natural, scenic or historical features.

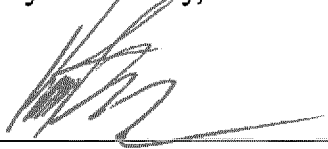
WHEREAS, the City’s Planning Commission recommends approval of the Conditional Use Permit application with the following conditions:

1. The proposed improvements shall be completed as approved and as conditionally revised by the Planning Commission and the City Council.
2. The applicant submit a petition for annexation, including all necessary submittal information and applicable fees, within sixty (60) days of Conditional Use Permit approval or within sixty (60) days of acquisition of the property, whichever is greater.
3. The applicant shall connect to City utilities (i.e. sanitary sewer and water) within 3 years of annexation of the subject parcel. The property owner shall be responsible for all costs regarding the necessary infrastructure and the required Metropolitan Council SAC fee and associated City Water Trunk fee and Sewer Trunk fee.
4. All areas intended to be utilized for parking space and driveways shall be surfaced with bituminous or concrete to control dust and drainage. Plans for surfacing and drainage shall be submitted to the City Engineer for review and approval. The surfacing of parking areas and driveways shall be complete within 5 years of Conditional Use Permit approval date.
5. The applicant shall submit a sign permit for the proposed monument signage. The proposed monument signage shall conform to Section 900.10 and be consistent with the standards and allowances associated with the B-1, Highway Business District per the conditional use permit standards.
6. Any update to the silo wall signage will require a permit and the sign dimensions shall not exceed the existing dimensions of the Willow Winds signage.
7. The applicant shall work with the City regarding the possible placement of future trail along the County Road 10 corridor, which may include necessary easements and grading for placement.
8. Any future fence installation shall require a permit from the City prior to installation and shall conform to City Code requirements for placement consistent with the B-1 standards.
9. The CUP shall become void one (1) year after being granted by the City Council if the applicant has not acted upon or made use of the approved use.
10. Any significant future expansion or modifications of the garden center use shall require review and approval by the City in the form of a Conditional Use Permit Amendment application.
11. The garden center use shall be allowed year-round and the hours of operation shall be 8 AM to 7 PM, Monday through Saturday and 8 AM to 5 PM on Sundays. The property owner shall also be allowed up to four evenings per month to host educational/craft classes with the allowance to remain open until 9 PM on said evenings.

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

1. The findings of the City's Planning Commission are hereby incorporated as findings of the City Council.
2. A Conditional Use Permit for garden center use is hereby approved, subject to the findings and conditions set forth in this resolution.
3. The Conditional Use Permit granted by this resolution shall remain in effect only so long as the conditions set forth in this resolution are observed and the applicable provisions of the Waconia Code are met.
4. The City Administrator shall, at the Applicant's expense, record a certified copy of this Resolution with the Carver County Recorder and/or Registrar of Titles, as appropriate, against the Property.

Adopted by the City Council of the City of Waconia this 16th day of February, 2021.


Kent Bloudek, Mayor

ATTEST: jacqueline schulze
Jackie Schulze, Interim City Administrator

M/ Waldron

S/ Leo

Bloudek

Pierson

Leo

Sorensen

Waldron

Aye

Aye

Aye

Aye

Aye



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-273 Approve Fire Contract for Waconia Township					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):	Consent		Regular Session	X	Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-273 Approving Contract for Fire Service for Waconia Township							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
City staff found the current fire contract with Waconia Township expired on December 31, 2022. Staff worked with the City Attorney to provide a new contract to be considered by the township. The contract is the same as the one put in place for 2018-2022 with the exception of section 9 and an updated map as Exhibit A. In section 9, the total amount for expenditure review by both parties was increased from \$20,000 to \$50,000 due to the price increases staff has seen for small equipment and fire gear replacement. Attached is a copy of the proposed contract with Waconia Township for fire service for a five year period commencing on January 1, 2023 and ending December 31, 2028. City staff felt that a five year term was sufficient so the contract can be reviewed again by all parties after the new fire station is fully operational and as the staffing needs of the department change. Waconia Township will consider approval of the contract at their next meeting. Waconia Township has paid their fees based on the current agreement for 2023. <u>Attachments:</u> 1. Resolution No. 2023-273 Approving Contract for Fire Service with Waconia Township 2. Contract for Fire and Rescue Services for Waconia Township							
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. 2023-273**

**RESOLUTION APPROVING CONTRACT FOR FIRE SERVICE WITH WACONIA
TOWNSHIP**

WHEREAS, the City of Waconia (the “City”) has a paid on-call fire department (the “Fire Department”); and

WHEREAS, Minnesota Statutes, Chapter 365, provides that town boards may contract with municipalities for fire protection services; and

WHEREAS, Waconia Township has requested the City and the Township enter into an agreement for fire protection services.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Waconia hereby approves the contract for fire service with Waconia Township and the City Administrator is authorized and directed to execute said contract on behalf of the City.

Adopted by the City Council of Waconia, Minnesota this 18th day of December 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

CONTRACT FOR FIRE AND RESCUE SERVICES

THIS CONTRACT FOR FIRE AND RESCUE SERVICES (the “**Agreement**”) is dated effective January 1, 2023, and is between the City of Waconia, a Minnesota municipal corporation (“**City**”) and Waconia Township, County of Carver, Minnesota (“**Township**”).

WITNESSETH, THE FOLLOWING RECITALS:

WHEREAS, the electors have authorized the Town Board of Waconia Township to provide fire and rescue services; and

WHEREAS, the City operates a fire department that provides fire and rescue services (the “**Fire Department**”); and

WHEREAS, the Town Board of Waconia Township desires to have the Fire Department furnish fire and rescue services to a portion of the Township, as described in this Agreement; and

WHEREAS, it is in the best interests of both parties to enter into this Agreement for a term of five (5) years to enable efficient planning for manpower and capital expenditure needs; provided, however, both parties believe it to be in their best interest to retain the right to terminate this Agreement at any time during the five (5) year term upon nine (9) months written notice provided to the other;

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants of the parties hereto, and pursuant to Minnesota Statutes Chapter 365, it is agreed as follows:

1. Provision of Services

1.1 Service Area. In accordance with the other terms and provisions hereof, the City shall provide fire and rescue services to the portion of the Township lying within the area outlined with a dotted line on the Fire Service Area map attached to this Agreement as **Exhibit A** (the “**Service Area**”).

1.2 Scope of Services. Subject to the provisions of this Agreement, the Fire Department will answer fire, rescue, and emergency calls in the Service Area and will respond to such calls with suitable apparatus and equipment, manned by an appropriate number of members of the Fire Department, who will assist within the scope of their training and available resources in the saving of life and property. Notwithstanding anything to the contrary contained herein, the failure to furnish the service herein agreed upon, because of weather, road conditions or the unavailability of such apparatus and equipment, in connection with the fighting of other fires or other emergency or rescue operations, shall not be taken as a breach of this Agreement. The decision of the chief of the Fire Department or other Fire Department officer in charge shall be final in such matter.

1.3 **Multiple Calls.** In the event of calls from two or more parties, the chief of the Fire Department or other Fire Department officer in charge shall determine which is the greater emergency and respond as such person deems appropriate, in his/her sole discretion.

1.4 **Mutual Aid.** The provisions of the reciprocal fire service agreement between the City and the surrounding communities shall apply whereby the various communities make available to each other their respective fire-fighting equipment and personnel in the case of emergencies, and each of the municipalities has legal authority to send its fire-fighting equipment and personnel into other communities, including at the discretion of the chief of the Fire Department or other Fire Department officer in charge.

2. **Indemnification.** The City agrees to defend and indemnify the Township against any third-party claims brought or actions filed against the Township or any officer, employee, or volunteer of the Township for injury to, death of, or damage to the property of any third person or persons, arising from the City's performance under this Agreement for services. Under no circumstances, however, shall the City be required to pay on behalf of itself and the Township, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for the Township and the City may not be added together to determine the maximum amount of liability for the City. The intent of this subdivision is to impose on the City a limited duty to defend and indemnify the Township for claims arising out of the performance of this Agreement subject to the limits of liability under Minnesota Statutes, Chapter 466. The purpose of creating this duty to defend and indemnify is to simplify the defense of claims by eliminating conflicts between the parties and to permit liability claims against both parties from a single occurrence to be defended by a single attorney. Nothing herein shall be construed to waive or limit any immunity from, or limitation on, liability available to either party, whether set forth in Minnesota Statutes, Chapter 466 or otherwise.

3. **Limitation of Liability.** The City shall not be liable to the Township for loss or damage of any kind whatsoever resulting from any failure to prevent, control or extinguish any fire or any failure to respond (or to timely respond) to any call for rescue or emergency assistance, whether such loss or damage is caused by the negligence of the officers, agents, or employees of the City or its Fire Department or otherwise.

4. **Insurance.** The City will carry liability insurance protecting itself against damage claims of its firefighters for personal injuries sustained while in the service of the Township, and further will carry liability insurance, providing for liability limits equal to or greater than the maximum liability applicable to municipalities pursuant to Minnesota Statutes §466.04, Subd. 1, as amended, so far as negligent acts of the firefighters in the employ of the City are concerned, and not otherwise.

5. **Term.** The term of this Agreement shall be for five (5) years commencing January 1, 2023, and ending December 31, 2027. This Agreement may be terminated prior thereto according to the terms hereafter set forth in Section 8.

6. **Annual Consideration: Formula.** The services provided by the City pursuant to this Agreement shall be furnished by the City for the annual consideration as determined by result of the application of the following formula, and payable within thirty (30) days following submission of an invoice:

$$\frac{(U+V)}{S}$$

$$S = [(C+E+P) + A] \times (2)$$

Where –

S - annual charge to the Township for such year.

U - percent of call man-hours for the Township as to total call man-hours by the Fire Department for the preceding five (5) years. Calls include all fire and rescue calls and false alarm calls into the area.

V - the percent of market valuation of areas of the Township served hereunder as to total market valuation in area served by the Fire Department; which percentage shall be computed according to the “market value” for each parcel on file in the Office of the Carver County Assessor as of February 1 of each year preceding the year in which the annual consideration is to be paid.

C - prior year’s net operating cost of the Fire Department as audited, as set forth in Section 7 of this Agreement.

E - equipment, debt service due in contract year.

P - physical plant, debt service due in contract year.

A - administrative cost, 10% x C.

For purposes of assisting the Township in preparing its annual budget, the City will give the Township its best estimate of the preceding year’s operating costs (C), valuation figures (V), and the preceding five (5) year usage percentages (U) on or before February 20th of each year to determine estimated cost for the following year. These charges shall be considered estimated costs for budgeting purposes only, and the final audit shall determine the cost of service as set forth in Section 7. Attached hereto and incorporated herein as **Exhibit B** is a Statement of the Estimated Costs (S) to be paid according to the above formula by the Township for calendar year 2023. It is contemplated herein that the City will provide a similar Statement of Estimated Cost to the Township on or before February 20th of each subsequent year during the term of this Agreement.

7. **Actual Audited Costs.** The parties understand and acknowledge that the annual consideration to be paid for each year during the term shall be computed under the foregoing formula for actual audited operating costs (C) and relative service usages (U) for the previous year.

As such, the parties agree that the annual consideration billed for each year shall be based on actual costs incurred the previous calendar year. The nature of the audit for the prior year shall be done in the following manner:

7.1 **Annual Audit.** An audit or accounting shall be conducted by the City commencing with calendar year 2023. Each annual audit shall determine the actual net operating cost (C) and five (5) year usage percentage (U) for the immediately preceding year. In determining the actual prior year's net operating costs (C), the actual net operating costs shall be reduced by a sum equal to:

- The difference between the sales proceeds received from the City's sale of any equipment or plant (E or P) (the purchase price thereof constituting either C, E, or P in any prior year's annual consideration computations), and, the amount of said proceeds applied by the City to liquidate debt service thereon, or
- The difference between the fair market value of any of such equipment, or plant that is retired by the City from further use in the Fire Department and any remaining debt service thereon actually paid by the City.

In determining the actual year's net operating cost (C), the actual net operating costs shall include all calls (including false alarm calls to Lake Waconia and all mutual aid and all weather spotting). Notwithstanding any provision to the contrary in this Agreement, such calls to Lake Waconia, and mutual aid and weather spotting shall not be included when calculating factor "U" in the formula set forth in Section 6 of this Agreement.

7.2 **Dispute as to Audit: Appeal-Arbitration.** If either party hereto is aggrieved by the determination of the prior years' operating costs (C), with the five (5) year usage percentages (U), said party shall have the right to appeal said determination by written notice addressed to the other party wherein said objecting party requests arbitration of said dispute. A notice requesting arbitration shall be ineffective unless it is postmarked within thirty (30) days after the objecting party's receipt of the audit information described in paragraph 7.1. If requested, arbitration shall be conducted by a Board of Arbitration consisting of five (5) members. The five (5) member Board of Arbitration shall consist of one (1) member to be appointed by the City, one (1) to be appointed by Waconia Township and one (1) to be selected by Laketown Township. Each entity shall select its arbitrator and provide notice to the other parties of its selection within five (5) days after receiving notice of the request for arbitration. The remaining two (2) members of the Board of Arbitration shall be selected by the arbitrator appointed by the City and the arbitrator selected by the non-appealing township, with each selecting one. The arbitration expenses and fees, except each party's attorney's fees, shall be divided equally between the parties and the decision of the Board of Arbitration shall be binding upon the parties and in lieu of judicial remedies. Should either party hereto fail to demand arbitration within the aforesaid time frame, the re-computed annual consideration for the prior year, as determined by the audit and advisory board re-computation, shall be binding upon the parties.

8. Early Termination.

8.1 **Procedure.** Either party may terminate this Agreement on December 31 of any year during the five (5) year term hereof by providing written notice of termination to the other; which notice shall be effective if and only if provided at least nine (9) months in advance of the December 31st date upon which the termination shall occur. Upon termination, the terminating party shall immediately provide a copy of such notice to the Minnesota State Insurance Commissioner and to Laketown Township. At any time during this Agreement should the companion Contract for Fire and Rescue Services between the City and Laketown Township be terminated, Waconia Township may, within sixty 60 days after receipt of notice of said termination, elect to terminate this Agreement effective no earlier than nine (9) months from the date of receipt of the notice of termination.

8.2 **Audit.** Upon termination, the City shall conduct an Audit in the same manner as hereinbefore set forth in Section 7.1 to determine any adjustment to the annual consideration for the year ending on the effective date of termination. Any adjustment finally determined therefrom shall be paid in cash from one party to the other within thirty (30) days after the final determination of said adjustment whether by audit or arbitration. For the purposes of the audit, the fair market value of any equipment or plant (E or P) purchased after January 1, 2023, shall be determined and such fair market value less any remaining debt service thereon shall be multiplied by $(U + V)/2$ as determined by said audit and the product thereof shall be paid in cash to the Township within thirty (30) days after the final determination of said amount by audit or arbitration.

9. **Decision Making.** The City shall continue to have the sole responsibility of the administration of its Fire Department without interference from the Township and all decisions concerning the administration thereof including future expansion of plant or capital expenditures for equipment shall rest with the City. Provided, however, the City shall provide written notice to the Township at least thirty (30) days prior to the final approval of any plant expansion or the purchase of any equipment having a cost exceeding \$50,000.00. Within thirty (30) days of receipt of said notice, the Township shall have the right to submit written comments to the City. The Township may also make oral comments at the City Council meeting when such plant expansion or equipment purchase is considered. The City will consider all written and oral comments before a final decision is rendered. The rights of Township shall be rights of advice only and the final decision thereon shall rest with the City. Any breach of the covenant herein shall entitle the Township to terminate this Agreement effective at the time designated by the Township by notice to first party thereof, in which event Section 8.2 shall apply.

10. **Annual Meeting of Parties.** Upon the request of the City, the Township or Laketown Township, the parties shall meet once per calendar year to discuss the provision of services pursuant to this Agreement, including equipment and building needs, projected fire operating budgets, and other issues relevant to this Agreement. Such meeting shall be attended by at least one member of the City's Council, the Administrator of the City, the Chief of the Fire Department, at least one member of the Township's Supervisors, and the Township's Clerk.

11. **Emergency Service Charge.** The Township, in its sole discretion, may exercise its authority to impose and collect an emergency service charge on those receiving emergency services, including fire services, within Township. The City shall have no right to, or interest in, any service fees collected by the Township.

12. **Construction.** This Agreement constitutes the entire Agreement between the parties and there are no other representations or warranties other than as specifically set forth herein. Any modification or amendments to this Agreement shall be deemed effective only if in writing duly signed by both parties. There are no third-party beneficiaries of this Agreement, and nothing herein shall be construed to create any interest or right in any third-party.

13. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and together which shall constitute one and the same document. Signatures transmitted by fax, email or other electronic means (e.g., pdf) shall be deemed binding, delivered and enforceable.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this 18th day of December 2023.

[Signature pages follow.]

SIGNATURE PAGE TO CONTRACT FOR FIRE AND RESCUE SERVICES

CITY OF WACONIA

Nicole Waldron
Mayor

Jacqueline Schulze
Clerk

SIGNATURE PAGE TO CONTRACT FOR FIRE AND RESCUE SERVICES

TOWNSHIP OF WACONIA

Chair

Clerk

EXHIBIT A
Service Area Map

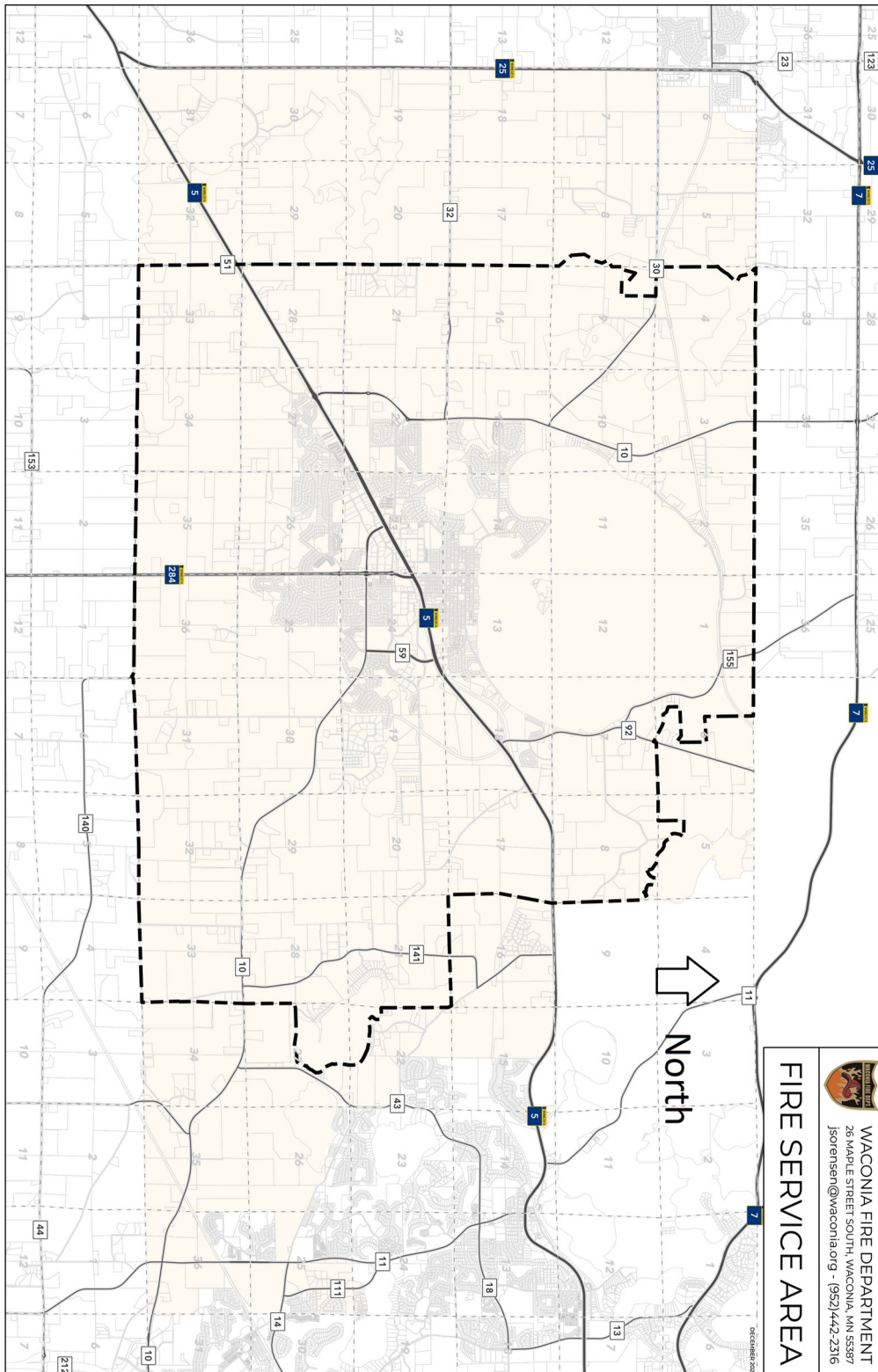


EXHIBIT B

Statement of Estimated Costs

City of Waconia 2023 FIRE CONTRACT									
<i>Formula & Values to Determine Percent of Sharing</i>									
5 Year Avg of Firefighter Hours					Property Market Values				
Year	Laketown Township	Waconia Township	City of Waconia	Annual Hours	Year	Laketown Township	Waconia Township	City of Waconia	Total Valuation
2018	326	330	4,532	5,188	2020/2021	223,934,500	229,234,300	1,898,385,800	2,351,554,600
2019	252	254	6,500	7,006	2021/2022	224,913,300	227,344,400	2,020,678,300	2,472,936,000
2020	293	328	2,888	3,509	2022/2023	266,611,900	257,956,800	2,457,762,800	2,982,331,500
2021	286	185	2,359	2,830		8.94%	8.65%	82.41%	100.00%
2022	259	134	3,603	3,996					
	1,416	1,231	19,882	22,529					
100.00%	6.29%	5.46%	88.25%						
<i>Cost of Operating, Equipment, & Debt</i>									
Fire Department Expenditures									
2022 Actual Operating Expenses				\$ 597,052.23	Note: operating does not include gambling expenditures				
Admin Fee				\$59,705.22	Note: fee represents 10% of operating budget				
Equipment Reserve				13% \$100,000.00	Note: annual appropriation for future equipment purchases				
Facility Improvements				\$0.00	Note: City does not share costs of new or expansions				
Total Costs to Share				\$ 756,757.45					
For Comparison	Operating Budget	Admin Fee			For Comparison	Equip Reserve	Laketown Twsp	Waconia Twsp	City of Waconia
2023	\$597,052.23	\$59,705.22			2023	\$100,000.00	\$7,612.47	\$7,056.78	\$85,330.74
2022	\$476,183.13	\$47,918.31			2022	\$100,000.00	\$7,956.01	\$8,127.20	\$83,916.79
2021	\$493,347.58	\$49,334.76			2021	\$100,000.00	\$9,401.01	\$8,565.66	\$82,033.32
2020	\$492,720.82	\$49,272.08			2020	\$100,000.00	\$9,170.16	\$8,501.95	\$82,327.89
2019	\$436,761.20	\$43,676.12			2019	\$100,000.00	\$10,751.10	\$9,133.28	\$80,115.61
2018	\$410,699.65	\$41,069.97			2018	\$100,000.00	\$11,125.87	\$9,413.34	\$79,460.80
<i>2023 Fire Cost Sharing Breakdown</i>									
			2023	For Comparison 2022	% Change	For Comparison 2021	For Comparison 2020	For Comparison 2019	For Comparison 2018
Laketown Township	7.61%		\$57,607.96	\$49,892.27	15.46%	\$60,418.64	\$58,871.77	\$62,403.42	\$61,389.15
Waconia Township	7.06%		\$53,402.75	\$50,965.79	4.78%	\$55,050.01	\$54,581.92	\$53,012.99	\$51,939.62
City of Waconia	85.33%		\$645,746.75	\$528,243.39	22.71%	\$527,213.69	\$528,539.20	\$485,020.91	\$438,440.54
	100.00%		\$756,757.45	\$627,101.44		\$642,682.34	\$641,992.89	\$580,437.32	\$551,769.61

[https://mhslaw.sharepoint.com/sites/1/41908/draftdocs/fire department/township fire contracts/contract for fire and rescue services-laketown township \(revised 11-20-2017\).docx](https://mhslaw.sharepoint.com/sites/1/41908/draftdocs/fire%20department/township%20fire%20contracts/contract%20for%20fire%20and%20rescue%20services-laketown%20township%20(revised%2011-20-2017).docx)



REQUEST FOR CITY COUNCIL ACTION

Meeting Date:		December 18, 2023					
Item Name:		Adopt Resolution No. 2023-274 Approving the Fire Contract for Laketown Township					
Originating Department:		Finance					
Presented by:		Nicole Meyer					
Previous Council Action (if any):							
Item Type (X only one):	Consent		Regular Session	X	Discussion Session		
RECOMMENDATIONS/COUNCIL ACTION/MOTION REQUESTED <i>(Include motion in proper format.)</i>							
Adopt Resolution #2023-274, Approving Contract for Fire Service for Laketown Township							
EXPLANATION OF AGENDA ITEM <i>(Include a description of background, benefits, and recommendations.)</i>							
City staff found the current fire contract with Laketown Township expired on December 31, 2022. Staff worked with the City Attorney to provide a new contract to be considered by the township. The contract is the same as the one put in place for 2018-2022 with the exception of section 9 and an updated map as Exhibit A. In section 9, the total amount for expenditure review by both parties was increased from \$20,000 to \$50,000 due to the price increases staff has seen for small equipment and fire gear replacement. Attached is a copy of the proposed contract with Laketown Township for fire service for a five year period commencing on January 1, 2023 and ending December 31, 2028. City staff felt that a five year term was sufficient so the contract can be reviewed again by all parties after the new fire station is fully operational and as the staffing needs of the department change. Laketown Township will consider approval of the contract at their next meeting. Laketown Township has paid their fees based on the agreement for 2023. <u>Attachments:</u> 1. Resolution No. 2023-274 Approving Fire and Rescue Services for Laketown Township 2. Contract for Fire and Rescue Services for Laketown Township							
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. 2023-274**

**RESOLUTION APPROVING CONTRACT FOR FIRE SERVICE WITH LAKETOWN
TOWNSHIP**

WHEREAS, the City of Waconia (the “City”) has a paid on-call fire department (the “Fire Department”); and

WHEREAS, Minnesota Statutes, Chapter 365, provides that town boards may contract with municipalities for fire protection services; and

WHEREAS, Laketown Township has requested the City and the Township enter into an agreement for fire protection services.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Waconia hereby approves the contract for fire service with Laketown Township and the City Administrator is authorized and directed to execute said contract on behalf of the City.

Adopted by the City Council of Waconia, Minnesota this 18th day of December, 2023.

Nicole Waldron, Mayor

ATTEST: _____
Jacqueline Schulze, City Clerk

CONTRACT FOR FIRE AND RESCUE SERVICES

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WITNESSETH, THE FOLLOWING RECITALS:

WHEREAS, the electors have authorized the Town Board of Laketown Township to provide fire and rescue services; and

WHEREAS, the City operates a fire department that provides fire and rescue services (the “**Fire Department**”); and

WHEREAS, the Town Board of Laketown Township desires to have the Fire Department furnish fire and rescue services to a portion of the Township, as described in this Agreement; and

WHEREAS, it is in the best interests of both parties to enter into this Agreement for a term of five (5) years to enable efficient planning for manpower and capital expenditure needs; provided, however, both parties believe it to be in their best interest to retain the right to terminate this Agreement at any time during the five (5) year term upon nine (9) months written notice provided to the other;

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants of the parties hereto, and pursuant to Minnesota Statutes Chapter 365, it is agreed as follows:

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$$\frac{(U+V)}{S}$$

$$S = [(C+E+P) + A] \times (2)$$

Where –

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As such, the parties agree that the annual consideration billed for each year shall be based on actual costs incurred the previous calendar year. The nature of the audit for the prior year shall be done in the following manner:

7.1 **Annual Audit.** An audit or accounting shall be conducted by the City commencing with calendar year 2023. Each annual audit shall determine the actual net operating cost (C) and five (5) year usage percentage (U) for the immediately preceding year. In determining the actual prior year's net operating costs (C), the actual net operating costs shall be reduced by a sum equal to:

- The difference between the sales proceeds received from the City's sale of any equipment or plant (E or P) (the purchase price thereof constituting either C, E, or P in any prior year's annual consideration computations), and, the amount of said proceeds applied by the City to liquidate debt service thereon, or
- The difference between the fair market value of any of such equipment, or plant that is retired by the City from further use in the Fire Department and any remaining debt service thereon actually paid by the City.

In determining the actual year's net operating cost (C), the actual net operating costs shall include all calls (including false alarm calls to Lake Waconia and all mutual aid and all weather spotting). Notwithstanding any provision to the contrary in this Agreement, such calls to Lake Waconia, and mutual aid and weather spotting shall not be included when calculating factor "U" in the formula set forth in Section 6 of this Agreement.

7.2 **Dispute as to Audit: Appeal-Arbitration.** If either party hereto is aggrieved by the determination of the prior years' operating costs (C), with the five (5) year usage percentages (U), said party shall have the right to appeal said determination by written notice addressed to the other party wherein said objecting party requests arbitration of said dispute. A notice requesting arbitration shall be ineffective unless it is postmarked within thirty (30) days after the objecting party's receipt of the audit information described in paragraph 7.1. If requested, arbitration shall be conducted by a Board of Arbitration consisting of five (5) members. The five (5) member Board of Arbitration shall consist of one (1) member to be appointed by the City, one (1) to be appointed by Laketown Township and one (1) to be selected by Waconia Township. Each entity shall select its arbitrator and provide notice to the other parties of its selection within five (5) days after receiving notice of the request for arbitration. The remaining two (2) members of the Board of Arbitration shall be selected by the arbitrator appointed by the City and the arbitrator selected by the non-appealing township, with each selecting one. The arbitration expenses and fees, except each party's attorney's fees, shall be divided equally between the parties and the decision of the Board of Arbitration shall be binding upon the parties and in lieu of judicial remedies. Should either party hereto fail to demand arbitration within the aforesaid time frame, the re-computed annual consideration for the prior year, as determined by the audit and advisory board re-computation, shall be binding upon the parties.

8. Early Termination.

8.1 **Procedure.** Either party may terminate this Agreement on December 31 of any year during the five (5) year term hereof by providing written notice of termination to the other; which notice shall be effective if and only if provided at least nine (9) months in advance of the December 31st date upon which the termination shall occur. Upon termination, the terminating party shall immediately provide a copy of such notice to the Minnesota State Insurance Commissioner and to Waconia Township. At any time during this Agreement should the companion Contract for Fire and Rescue Services between the City and Waconia Township be terminated, Laketown Township may, within sixty 60 days after receipt of notice of said termination, elect to terminate this Agreement effective no earlier than nine (9) months from the date of receipt of the notice of termination.

8.2 **Audit.** Upon termination, the City shall conduct an Audit in the same manner as hereinbefore set forth in Section 7.1 to determine any adjustment to the annual consideration for the year ending on the effective date of termination. Any adjustment finally determined therefrom shall be paid in cash from one party to the other within thirty (30) days after the final determination of said adjustment whether by audit or arbitration. For the purposes of the audit, the fair market value of any equipment or plant (E or P) purchased after January 1, 2023, shall be determined and such fair market value less any remaining debt service thereon shall be multiplied by $(U + V)/2$ as determined by said audit and the product thereof shall be paid in cash to the Township within thirty (30) days after the final determination of said amount by audit or arbitration.

9. **Decision Making.** The City shall continue to have the sole responsibility of the administration of its Fire Department without interference from the Township and all decisions concerning the administration thereof including future expansion of plant or capital expenditures for equipment shall rest with the City. Provided, however, the City shall provide written notice to the Township at least thirty (30) days prior to the final approval of any plant expansion or the purchase of any equipment having a cost exceeding \$50,000.00. Within thirty (30) days of receipt of said notice, the Township shall have the right to submit written comments to the City. The Township may also make oral comments at the City Council meeting when such plant expansion or equipment purchase is considered. The City will consider all written and oral comments before a final decision is rendered. The rights of Township shall be rights of advice only and the final decision thereon shall rest with the City. Any breach of the covenant herein shall entitle the Township to terminate this Agreement effective at the time designated by the Township by notice to first party thereof, in which event Section 8.2 shall apply.

10. **Annual Meeting of Parties.** Upon the request of the City, the Township, or Waconia Township, the parties shall meet once per calendar year to discuss the provision of services pursuant to this Agreement, including equipment and building needs, projected fire operating budgets, and other issues relevant to this Agreement. Such meeting shall be attended by at least one member of the City's Council, the Administrator of the City, the Chief of the Fire Department, at least one member of the Township's Supervisors, and the Township's Clerk.

11. **Construction.** This Agreement constitutes the entire Agreement between the parties and there are no other representations or warranties other than as specifically set forth herein. Any modification or amendments to this Agreement shall be deemed effective only if in writing duly signed by both parties. There are no third-party beneficiaries of this Agreement, and nothing herein shall be construed to create any interest or right in any third-party.

12. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and together which shall constitute one and the same document. Signatures transmitted by fax, email or other electronic means (e.g., pdf) shall be deemed binding, delivered and enforceable.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this 18th day of December 2023.

[Signature pages follow.]

SIGNATURE PAGE TO CONTRACT FOR FIRE AND RESCUE SERVICES

CITY OF WACONIA

Nicole Waldron
Mayor

Jacqueline Schulze
Clerk

SIGNATURE PAGE TO CONTRACT FOR FIRE AND RESCUE SERVICES

TOWNSHIP OF WACONIA

Chair

Clerk

EXHIBIT A
Service Area Map

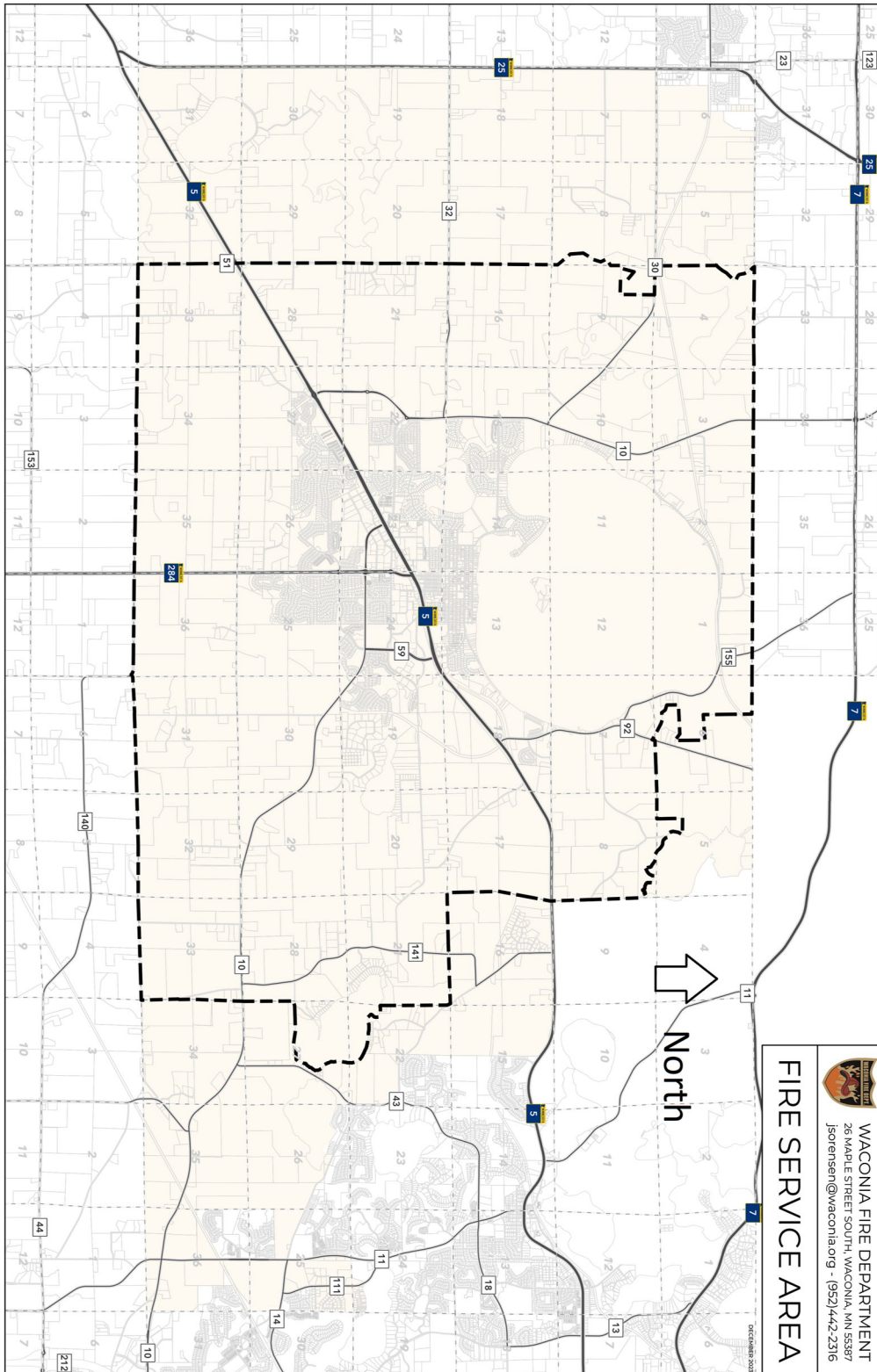


EXHIBIT B

Statement of Estimated Costs

City of Waconia
2023 FIRE CONTRACT

Formula & Values to Determine Percent of Sharing

5 Year Avg of Firefighter Hours

Year	Laketown Township	Waconia Township	City of Waconia	Annual Hours
2018	326	330	4,532	5,188
2019	252	254	6,500	7,006
2020	293	328	2,888	3,509
2021	286	185	2,359	2,830
2022	259	134	3,603	3,996
	1,416	1,231	19,882	22,529
100.00%	6.29%	5.46%	88.25%	

Property Market Values

Year	Laketown Township	Waconia Township	City of Waconia	Total Valuation	Value Change from previous year
2020/2021	223,934,500	229,234,300	1,898,385,800	2,351,554,600	
2021/2022	224,913,300	227,344,400	2,020,678,300	2,472,936,000	
2022/2023	266,611,900	257,956,800	2,457,762,800	2,982,331,500	17.08%
	8.94%	8.65%	82.41%	100.00%	

Cost Sharing % for Current Contract

	% of Hours	% of Valuation	2023 Net %	For Comparison 2022
Laketown Township	6.29%	8.94%	7.61%	7.96%
Waconia Township	5.46%	8.65%	7.06%	8.13%
City of Waconia	88.25%	82.41%	85.33%	83.92%

Cost of Operating, Equipment, & Debt

Fire Department Expenditures

2022 Actual Operating Expenses	\$ 597,052.23	Note: operating does not include gambling expenditures
Admin Fee	\$59,705.22	Note: fee represents 10% of operating budget
Equipment Reserve	13% \$100,000.00	Note: annual appropriation for future equipment purchases
Facility Improvements	\$0.00	Note: City does not share costs of new or expansions
Total Costs to Share	\$ 756,757.45	

For Comparison	Operating Budget	Admin Fee	For Comparison	Equip Reserve	Laketown Twsp	Waconia Twsp	City of Waconia
2023	\$597,052.23	\$59,705.22	2023	\$100,000.00	\$7,612.47	\$7,056.78	\$85,330.74
2022	\$476,183.13	\$47,618.31	2022	\$100,000.00	\$7,956.01	\$8,127.20	\$83,916.79
2021	\$493,347.58	\$49,334.76	2021	\$100,000.00	\$9,401.01	\$8,585.66	\$82,033.32
2020	\$492,720.82	\$49,272.08	2020	\$100,000.00	\$9,170.16	\$8,501.95	\$82,327.89
2019	\$436,761.20	\$43,676.12	2019	\$100,000.00	\$10,751.10	\$9,133.28	\$80,115.61
2018	\$410,699.85	\$41,069.97	2018	\$100,000.00	\$11,125.87	\$9,413.34	\$79,460.80

2023 Fire Cost Sharing Breakdown

	2023	For Comparison 2022	% Change	For Comparison 2021	For Comparison 2020	For Comparison 2019	For Comparison 2018	
Laketown Township	7.61%	\$57,607.96	\$49,892.27	15.46%	\$60,418.64	\$58,871.77	\$62,403.42	\$61,389.15
Waconia Township	7.06%	\$53,402.75	\$50,985.79	4.78%	\$55,050.01	\$54,581.62	\$53,012.99	\$51,939.92
City of Waconia	85.33%	\$645,746.75	\$526,243.39	22.71%	\$527,213.69	\$528,539.20	\$485,020.91	\$438,440.54
	100.00%	\$756,757.45	\$627,101.44		\$642,682.34	\$641,992.89	\$580,437.32	\$551,769.61

[https://mhsllaw-my.sharepoint.com/personal/mmelchert_mhslaw_com/documents/desktop/contract for fire services laketown township \(draft 12-06-2023\).docx](https://mhsllaw-my.sharepoint.com/personal/mmelchert_mhslaw_com/documents/desktop/contract%20for%20fire%20services%20laketown%20township%20(draft%2012-06-2023).docx)

RENTAL AGREEMENT FOR PORTABLE SAUNA LOCATION

This rental agreement is dated December 11, 2023 and is between the City of Waconia, a Minnesota municipal corporation (the “**City**”) and Revival Sauna Experience LLC, a Minnesota limited liability company (“**Revival Saunas**”).

1. **Term of Agreement.** The term of this agreement shall commence December 1, 2023, and expire April 30, 2024 (the “**Term**”).
2. **Rental.**
 - 2.1. **Use.** The City grants Revival Saunas a non-exclusive right to place a portable sauna and detached portable warming house (collectively, the “**Sauna/Warming House**”) at the City’s Cedar Point Park (the “**Park**”) during the Term of this agreement. Revival Saunas shall place and maintain the Sauna/Warming House at the locations labeled “Sauna” and “Warming House Check-in” on the diagram attached as Exhibit A. Further, the portable sauna shall substantially conform in design and size to the sauna depicted on attached Exhibit A. Sauna/Warming House users may use the Park’s parking lot (the “**Parking Lot**”) on a non-exclusive basis with other Park users; no exclusive parking will be provided. Any signs on the Sauna/Warming House are subject to the City’s approval, which may be granted or denied at the City’s discretion.
 - 2.2. **Conditions.** Revival Saunas rights under this agreement are personal to Revival Saunas and Revival Saunas is not being granted, nor shall it claim, any right, title or interest in the Park. As such, Revival Saunas may not assign this agreement or its rights under this agreement to any other person or entity. Revival Saunas’ rights under this agreement are limited to those expressly described in this agreement and shall not be expanded by implication.
 - 2.3. **“As Is” Condition.** Revival Saunas acknowledges the City has made no warranties or representations as to the suitability of the Park for Revival Saunas intended Sauna/Warming House use. Revival Saunas acknowledges it is accepting the area designated for the Sauna/Warming House, the Parking Lot, and the balance of the Park on an “AS IS,” “WHERE IS,” and “WITH ALL FAULTS” basis. Nothing herein obliges the City to plow the Parking Lot or Park trails within any specific amount of time after a snowfall. Revival Saunas acknowledges the City typically plows these areas after other streets, alleys, and parking areas.
3. **Disclosure Form for Users.** Revival Saunas shall cause each sauna user to sign the Sauna Use Disclosure attached as Exhibit B (the “**Disclosure**”). Revival Saunas shall provide the City with an executed original of each Disclosure within ten (10) days after it is executed.

4. **Rent.** Revival Saunas shall pay the City the sum of \$300.00 as gross rent for the Term of this agreement ("**Rent**"). The full amount of the Rent shall be paid, in advance, upon execution of this agreement. Revival Saunas shall deliver the Rent payment to the City at the following address: City of Waconia, Attn: Accounts Receivable, 201 South Vine Street, Waconia, MN 55387.
5. **Operation, Maintenance and Repair.** Revival Saunas is responsible for all costs, taxes, permit fees and license fees associated with its operation of the Sauna/Warming House. Revival Saunas, at its expense, shall keep the Sauna/Warming House in good condition and repair and in a clean and orderly condition. Promptly after each snowfall, Revival Saunas shall shovel/plow a path between the trail or Parking Lot and the Sauna/Warming House area at its expense. At all times, Revival Saunas shall maintain such path in a manner that allows safe access and use of the Sauna/Warming House. Revival Saunas shall not make any modifications, alterations, or improvements to the Sauna/Warming House area, the Parking Lot, or any other portion of the Park without the City's prior approval, which approval may be granted or denied in the City's discretion. Revival Saunas shall not allow any waste or injury to the Sauna/Warming House area, the Parking Lot or the other portions of the Park.
6. **Publicity.** Revival Saunas gives the City permission to publicize the sauna (using Revival Sauna's name and logos) as the City may determine, in its sole discretion. Any publicity initiated by the City shall be without cost to Revival Saunas. Further, Revival Saunas may, on its initiative, purchase advertising from the City at the City's current rates.
7. **Surrender.** On or before the expiration or earlier termination of the Term of this agreement, Revival Saunas shall, at its expense i) remove the Sauna/Warming House and repair any damage caused by such removal; ii) remove all personal property and rubbish from the Sauna/Warming House area; and iii) otherwise return the Sauna/Warming House area to the same order and condition as they existed on the commencement of the Term of this agreement. Any personal property remaining in the Sauna/Warming House area after the expiration or earlier termination of the Term of this agreement shall be deemed abandoned and may be disposed of by the City, in its discretion. Revival Saunas hereby releases the City from any liability associated with the disposal of personal property deemed abandoned. Further, Revival Saunas agrees to reimburse the City for all expenses, including attorney's fees, incurred by the City in connection with i) removing personal property from the Sauna/Warming House area or other areas of the Park; ii) storing personal property; iii) returning personal property to its owner; or iv) disposing of personal property.
8. **Compliance.** Revival Saunas shall operate its business and the Sauna/Warming House in full compliance with all applicable municipal, state and federal laws, statutes, ordinances, codes and regulations.
9. **Indemnification.** Revival Saunas agrees to indemnify, defend, and hold the City, its elected officials, officers, employees, and volunteers harmless from and against any claims, actions, liabilities, damages, costs and expenses, including attorneys' fees, arising out of injury, death, property damage or property loss occasioned wholly or in part by i) use of the Sauna/Warming

House, the Parking Lot, or other portions of the Park by Revival Saunas, its offices, employees, customers, guests, or invitees; ii) Revival Saunas' operations; or iii) Revival Sauna's breach of this agreement. This indemnification shall survive the expiration or earlier termination of the Term and this agreement.

10. **Insurance.** Revival Saunas shall provide proof of liability and workers' compensation insurance coverage, acceptable to the City, before using the Sauna/Warming House area and shall maintain such insurance coverage throughout the term of this agreement. The liability insurance policy shall be endorsed to name the City as an additional insured in regarding this agreement and such insurance shall be primary coverage regarding all matters relating to Revival Saunas' obligations of indemnification hereunder without right of contribution from similar insurance maintained by the City. Revival Saunas shall promptly provide the City with a certificate of insurance evidencing the required insurance, which certificate shall provide that the issuer shall endeavor to give the City not less than thirty (30) days prior written notice before the termination of any insurance coverage required hereunder.
11. **Waiver.** Notwithstanding anything to the contrary in this agreement, the City and its elected officials, officers, employees, and volunteers shall not be liable to Revival Saunas for, and Revival Saunas hereby releases such parties from, all damage, compensation and claims arising in whole or in part from i) loss or damage to trade fixtures, equipment or personal property associated with the Sauna/Warming House or Revival Saunas' operations; ii) lost business or other consequential damage arising out of interruption in the use of the Sauna/Warming House or the Parking Lot; and iv) any criminal act by any person, including but not limited to, theft of any personal property from the Sauna/Warming House or the Parking Lot. Revival Saunas agrees to obtain insurance to protect Revival Saunas from all such losses.
12. **Early Termination.** The Lease Term and this agreement will terminate early under any of the following circumstances:
 - 12.1. The City may, at its sole option, terminate the Term and this agreement for cause upon written notice to Revival Saunas if Revival Saunas fails to pay any Rent payment when due.
 - 12.2. The City may, at its sole option, terminate the Lease Term and this agreement for cause upon written notice to Revival Saunas if Revival Saunas breaches any other obligation of Revival Saunas under this agreement and such breach has not been fully cured by Revival Saunas within ten (10) days of receiving written notice of the deficiency from the City.
13. **Miscellaneous.** The recitals at the beginning of the agreement and the attached exhibits are incorporated by reference as terms of the agreement. This agreement contains the entire understanding of the parties with respect to the subject matter of this agreement. No modification or amendment to this agreement will be effective unless it is in writing and executed by both parties to this agreement. Nothing contained in this agreement creates a partnership or joint venture between the City and Revival Saunas. This agreement binds and

inures to the benefit of the parties hereto and their respective successors and assigns. This agreement is governed by Minnesota law, exclusive of choice of law rules.

14. **Execution.** This agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and together which shall constitute one and the same document. Signatures transmitted by fax, email or other electronic means (e.g., pdf) shall be deemed binding, delivered and enforceable.

Revival Sauna Company LLC

City of Waconia



F3ADC0BAC047433...

Paul Modeen, Chief Manager

Shane Fineran, City Administrator

Date: 12/11/2023

Date: _____

Address for notices:
STE 300 7900 INTERNATIONAL DR
BLOOMINGTON MN 55425
2562 USA

Address for notices:
201 South Vine Street
Waconia, MN 55387

EXHIBIT A

Diagram of Sauna/Warming House



EXHIBIT B**Sauna Use Disclosure**

I acknowledge Revival Sauna Experience, LLC ("**Revival Saunas**") is required to give me the following information and obtain my signature on this form before I can use the sauna at Cedar Point Park.

I acknowledge I have received the following information:

- The sauna at Cedar Point Park is in a municipal park owned by the City of Waconia, Minnesota (the "**City**"). All ordinances in the Waconia City Code relating to municipal parks and the use of municipal parks apply. Further, all Minnesota Statutes regarding parks and recreational facilities apply.
- The only relationship between the City and Revival Saunas is that of lessor and lessee. The City is not in a partnership or joint venture with Revival Saunas of any kind. As such, the City has no responsibility for the actions or omissions of Revival Saunas or its employees.
- The sauna is located next to Lake Waconia. Depending on weather conditions, the ice on the lake may be too thin to support a person or may otherwise become unsafe.

Given the above, I agree the City and its elected officials, officers, and employees shall not be liable to me, and I hereby release such parties from, all damage, compensation and claims arising, in whole or in part, from my use of i) the sauna in Cedar Point Park; or ii) Lake Waconia.

Signature: _____

Print Name: _____

Date: _____