WILLMAR CITY COUNCIL MEETING

MONDAY, AUGUST 5, 2024 @ 6:30 PM

BOARD ROOM HEALTH AND HUMAN SERVICES BUILDING

2200 – 23rd STREET NE, WILLMAR MINNESOTA

AGENDA

1. Call Meeting to Order
2. Roll Call
3. Pledge of Allegiance
4. Proposed Additions or Deletions to Agenda
5. Proclamation
   A. Proclamation
6. Consent Items

   Approve:

   A. City Council Minutes of July 29, 2024

   B. Municipal Utilities Commission Meeting Minutes of July 22, 2024

   C. Planning Commission Minutes of July 17, 2024_Draft

   D. Consideration to approve the 2-year lease and advertising agreement with Willmar Warhawks for facility and ice usage at the Willmar Civic Center

   E. Consideration to approve facility use agreement with Willmar Public Schools

   F. Consideration of the Glacial Ridge Curling advertisement agreement for Blue Line Arena at the Willmar Civic Center

   G. Consideration to approve West Central Roofing Contractor contract to repair Civic Center Shop Roof

   H. Consideration to approve the contract with West Central Roofing Contractors, Inc for the installation of Civic Center snow guards.

   I. Accept and approve Final payment for Project No. 2210 TH 12 Liftstation

   J. Removal of Inactive Planning Commissioner

   K. Zoning Appeals Board Applicant - Steve Ahmann

   L. Zoning Appeals Board Applicant - Jeanne Kling

   M. Accounts Payable Report, 7/24/24 - 7/31/24

   Information:

   N. Monthly Permit Report July 2024

7. Approve Consent Agenda Items
8. Items Removed from Consent Agenda
9. Open Forum (Individuals Limited to Three (3) Minutes)
10. Public Hearing:
    A. Public Hearing Establishing a Gas Franchise Ordinance
    B. Public Hearing Establishing a Gas Franchise Fee Ordinance
11. Regular Business
    A. Presentation from the Coalition of Greater MN Cities, Bradley Peterson
    B. Master Agreement for Professional Services Willmar Municipal Airport
    C. County Project No. 2403-A Cooperative Construction Agreement
    D. Fiber Use Agreement Between the City of Willmar and Hometown Fiber
    E. Professional Services Agreement Between the City of Willmar and Bolton & Menk
    F. Set Council Budget work session week of August 26
12. "Community Pride" Announcements
13. Adjourn

PROCLAMATION

City of Willmar

Ann Cofell Day

WHEREAS, Mid-Minnesota Legal Aid's longest-serving Deputy Director, Ann Cofell will close out a 44-year career serving lowest-income, vulnerable and marginalized clients residing throughout Kandiyohi County and 48 nearby counties; and

WHEREAS, Ann Cofell joined Mid-Minnesota Legal Aid August 9, 1980 fresh out of law school and rapidly ascended to the rank of deputy director in 1983; and

WHEREAS, Ann Cofell helped clients obtain 21,231 nights of safe housing; directly impacted more than 15,012 people throughout her career and garnered $473,737 dollars of legal benefits on behalf of clients;

NOW, THEREFORE, BE RESOLVED that the Mayor, City Council, City Staff and citizens of Willmar hereby offer their sincere appreciation to Ann Cofell as she retires Friday, August 9, 2024.

IN WITENSS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Willmar, this 5th day of August 2024.

____

Justin Ask, Mayor Pro-Tem

WILLMAR CITY COUNCIL PROCEEDINGS
Willmar Municipal Utilities
700 Litchfield Ave SW, Willmar, MN 56201

July 29, 2024
6:00 PM

The regular meeting of the Willmar City Council was called to order by Mayor Douglas Reese. Members present on a roll call were Mayor Douglas Reese, Council Members Justin Ask, Audrey Nelsen, Vicki Davis, Carl Shuldes, Michael O'Brien, Thomas Butterfield, Julie Asmus, and Rick Fagerlie. Present 9, Absent 0.

Also present were City Administrator Leslie Valiant, City Operations Director Kyle Box, Finance Director Tom Odens, Planning and Development Director Christopher Corbett, Public Works Director Justin DeLeeuw, Director of Community Outreach Pablo Obregon, Captain Michael Anderson, Information Systems Coordinator Jonah Johnson, Dylan Idso from Bolton and Menk, and City Clerk Vernae Larsen.

There were no additions or deletions to the agenda.

Council Member Ask moved to approve the agenda. Council Member Shuldes seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Ayes	Council Member Ask, Council Member Nelsen, Council Member Davis, Council Member Shuldes, Council Member Fagerlie, Council Member Asmus, Council Member Butterfield, Council Member O'Brien
Noes	None

City Clerk Vernae Larsen reviewed the consent agenda.

Approve:

A. City Council Minutes of July 15, 2024

B. Accounts Payable Report, 7/11/24 - 7/23/24

C. West Central Ducks Unlimited Lawful Gambling Application

A motion to **Approve Consent Agenda Items** was introduced by Council Member Ask. Council Member Butterfield seconded the motion, which carried on a roll call vote of Ayes 8, Noes 0.

Ayes	Council Member Ask, Council Member Nelsen, Council Member Davis, Council Member Shuldes, Council Member Fagerlie, Council Member Asmus, Council Member Butterfield, Council Member O'Brien
Noes	None

Regular Business:

A. **Capital Improvement Plan**

City Administrator Leslie Valiant introduced the Capital Improvement Plan. Finance Director Tom Odens went through the proposed plan by line item with department directors adding information as questions were asked. No action was taken.

Council Member O'Brien left the meeting at 8:00 p.m.

Mayor Reese called for a 5-minute break at 8:18.

The meeting resumed at 8:25 p.m.

Closed Session:

A. **Closed Session Pursuant to MN Statute 13D.05 Subd.3(c) Parcels 95-003-2350, 95-003-2490, 95-003-6270**

Council Member Ask introduced the action for Council to enter closed session Pursuant to MN §13D.05 Sub 3(c) to discuss **Parcels 95-003-2350, 95-003-2490, 95-003-6270.** Council Member Butterfield seconded the motion which carried on a roll call vote of Ayes 7, Noes 0.

Ayes	Council Member Ask, Council Member Nelsen, Council Member Davis, Council Member Shuldes, Council Member Fagerlie, Council Member Asmus, Council Member Butterfield
Noes	None

The Council entered closed session at 8:26 p.m.
The Council resumed open session at 8:52 p.m.

B. **Closed Session Under MN Statute 13D.05 Subd.3(c) Parcels 95-833-0520, 95-833-1600, 95-833-0160, 95-833-0240, 95-833-0250**

Council Member Fagerlie introduced the action for Council to enter closed session Pursuant to MN §13D.05 Sub 3(c) to discuss **Parcels 95-833-0520, 95-833-1600, 95-833-0160, 95-833-0240, 95-833-0250.** Council Member Asmus seconded the motion which carried on a roll call vote of Ayes 7, Noes 0.

Ayes	Council Member Ask, Council Member Nelsen, Council Member Davis, Council Member Shuldes, Council Member Fagerlie, Council Member Asmus, Council Member Butterfield
Noes	None

The council entered closed session at 8:54 p.m.
The Council resumed open session at 9:37 p.m.

At 9:38 p.m. Council Member Fagerlie motioned to **Adjourn.** Council Member Butterfield seconded the motion, which carried on a roll call vote of Ayes 7, Noes 0.

Ayes	Council Member Ask, Council Member Nelsen, Council Member Davis, Council Member Shuldes, Council Member Fagerlie, Council Member Asmus, Council Member Butterfield
Noes	None

MAYOR

Attest:

CITY CLERK

Willmar Municipal Utilities

WILLMAR MUNICIPAL UTILITIES COMMISSION

Meeting Minutes – July 22, 2024
11:45 am – WMU Auditorium

The Municipal Utilities Commission (MUC) met in its regular scheduled meeting on Monday, July 22, 2024, at 11:45 am in the WMU Auditorium with the following Commissioners present: John Kennedy, Dave Baumgart, Patricia Elizondo, and Bruce DeBlieck. Absent were Commissioners Shawn Mueske, Carol Laumer, and Terrill Sieck.

Others present at the meeting were: General Manager John Harren, Director of Administration Janell Johnson, Finance & Office Services Supervisor Andrea Prekker, Staff Electrical Engineer Jeron Smith, Information Systems Coordinator Mike Sangren, Executive Secretary Beth Mattheisen, City Attorney Robert Scott (via teleconference), and WC Tribune Journalist Jennifer Kotila.

The meeting opened by reciting the Pledge of Allegiance. Due to the absence of Commission President Mueske, Commission Vice President Kennedy continued by asking if any changes to the agenda were needed. There being none, a resolution to approve the consent agenda was requested. Following review and discussion, Commissioner Baumgart offered a resolution to approve the consent agenda as presented. Commissioner DeBlieck seconded.

RESOLUTION NO. 28

"BE IT RESOLVED, by the Municipal Utilities Commission of the City of Willmar, Minnesota, that the consent agenda be approved as presented which includes:

- Meeting minutes from July 8, 2024; and,
- Bills represented by vouchers No. 20240925 to No. 20241032 and associated wire transfers inclusive in the amount of $2,271,504.53.

Dated this 22nd day of July 2024.

____
Vice President

Attest:

____
Secretary

The foregoing resolution was adopted by a vote of four ayes and zero nays.

Commissioner Elizondo (LC Chair) reviewed with the Commission minutes from the July 15th WMU Labor Committee meeting (see attached). Following review and discussion, Commissioner Elizondo offered a motion to approve the minutes as presented which includes the updated General Manager job description and the tentative timeline to complete the hiring process. Commissioner DeBlieck seconded the motion which carried by a vote of four ayes and zero nays.

In conjunction with the approved LC minutes, two key dates to note were for two additional special meetings of the Commission. The special meeting dates are Monday, August 26th (11:00-11:45 am) to select finalists for the position, and Friday, September 13th (10:00-3:00 pm tentatively) to conduct interviews of the selected finalists to fill the General Manager position.

Staff Electrical Engineer Smith presented the 2023 NERC Compliance Year-End Review. This summary included an overview of the activities for compliance with the North American Electric Reliability Corp. (NERC) and enforcement by the Midwest Reliability Organization (MRO). NERC is a non-profit regulatory authority whose mission is to assure the reliability and security of the bulk power system in North America. Due to WMU's ownership at the Willmar

Substation and Priam Substation, WMU is registered and actively monitored as a Transmission Owner and subject to NERC compliance regulations. Compliance Standards along with additional compliance activities and a 2024 preview were reviewed.

American Public Power Association (APPA) has a 15-part on-demand training course entitled *"Public Power Governance Essentials"*. This series offers a convenient way to get "up-to-speed" on governance requirements, such as complying with charters/bylaws, reporting conflicts of interest, understanding duties and legal obligations, and facilitating an effective board meeting. At this time, the informational video entitled *"In-the-Weeds, Not In-the-Weeds*" (Lesson #13) was presented.

As a member of Missouri River Energy Services (MRES), WMU is provided a monthly update of the MRES and Western Minnesota Municipal Power Agency (WMMPA) Boards of Director meetings. The June 2024 monthly update provided a brief overview of the topics discussed by the Boards and the actions taken.

General Manager Harren requested input from the Commission regarding the annual tour of WMU facilities and projects. Due to the lack of significant changes over the past year, the Commission reached a consensus to forego the annual tour this year. Instead, they decided to provide photos of ongoing projects, such as the Water Treatment Plant. These photos will be shared at the joint meeting between WMU and City Officials on August 14th for their information.

General Manager Harren informed the Commission that meetings of both the WMU Planning and Labor Committees would be forthcoming. The Planning Committee will meet on Wednesday, August 21st @ 12:00 pm to review the proposed 2025 Budgets and 2024 Rate Study. Tentative future Labor Committee agenda item(s) will include new building land acquisition and MUC Self-Survey. Tentative future Planning Committee agenda items will include new building, new generation, and transmission project.

In addition to these meetings, a joint meeting between WMU and the City is scheduled for Wednesday, August 14th to discuss. This meeting will cover items of mutual interest including WMU's Annual Update to the City, updating of collaborative agreements, and the Swansson Field Agreement South of Willmar Avenue.

Upcoming 2024 events to note:

- MMUA Summer Conference (Fargo, ND): August 19-21
- Red Rock Hydroelectric Project tours (Pella, IA): July 31, Aug. 28, or Sept. 25
- MRES Leadership Academy (Sioux Falls, SD): September 18-19

There being no further business to come before the Commission, Commissioner DeBlieck offered a motion to adjourn. Commissioner Baumgart seconded the motion which carried by a vote of four ayes and zero nays, and the meeting was adjourned at 12:42 pm.

Respectfully Submitted,

WILLMAR MUNICPAL UTILITIES

____
Beth Mattheisen, Executive Secretary

ATTEST:

____
Dave Baumgart, Secretary

WILLMAR MUNICIPAL UTILITIES
MUC Labor Committee Meeting Minutes
Monday, July 15, 2024
12:00 pm (WMU Conference Room)

Attendees: Commissioners Patricia Elizondo and Bruce DeBlieck, General Manager John Harren, Director of Administration Janell Johnson, and Management Consultant Liza Donabauer of David Drown Associates (DDA).

Commissioner Elizondo (LC Chair) called the meeting to order at 12:00 pm.
****

1) **General Manager search process, profile, and timeline:** (Liza Donabauer of DDA)
Ms. Donabauer reviewed documents relating to the General Manager search process with the Committee. These documents included:
   - A draft community and position profile/announcement.
   - The proposed timeline for completing the search.
   - The current General Manager job description with proposed changes.

   A brief update of the process to date along with the next steps to follow were discussed. It was noted that on July 10th, Ms. Donabauer had met individually with each of the seven Commissioners, along with a group meeting of the WMU Management Staff. These meetings were held to gather valuable data to aid in filling this leadership position.

   The candidate recruitment advertisement will run for approximately four weeks beginning July 16th. Critical dates to note include:
   - August 26th: Commission will meet to select finalists for interviews
   - September 13th: Special MUC meeting to conduct interviews with the finalists. "Meet & Greet" to be held prior to this meeting (invite MUC/Council/Chamber/Mgmt. Staff).
   - October 2024: Projected start date.

   Following a thorough review of the presented data, the identified actions to be taken are:
   - Photos and Organizational Chart:
     - Staff will forward additional photos along with an updated Organizational Chart to DDA.
   - Document Revisions:
     - Ms. Donabauer will make the suggested revisions to the documents, including updating the timeline.
     - A copy of the updated documents will be forwarded to WMU.
   - Progress Reports**:**
     - DDA will provide weekly progress reports to the Commission (data to be distributed to MUC via WMU staff).

2) **Adjournment:**
There being no further business to come before the WMU Labor Committee, Commissioner Elizondo offered a motion to adjourn. Commissioner DeBlieck seconded the motion which carried, and the meeting was adjourned by a vote of two ayes and zero nays at 1:05 pm.

WILLMAR PLANNING COMMISSION
WEDNESDAY, JULY 17, 2024
333 6TH STREET SW, CONFERENCE ROOM 1

MINUTES

The Willmar Planning Commission met on Wednesday, July 17, 2024, at 6:30pm at City Hall.

Members Present: Chairman Jonathan Marchand; Gary Newberg; Bob Poe; and Yvon Fils-Aime.

Members Absent: Stacy Holwerda; Steve Dresler; Christopher Buzzeo; and Fernando Cano.

Others Present: Christopher Corbett (City Planning and Development Director); Christopher Frank (City Planner); Jennifer Kotila (West Central Tribune); Patrick O'Rourke (KCED); Andrea Huerta (Huerta Properties); Luis Huerta (Huerta Properties); and Matt Evans (Walt's).

1. Chairman Marchand called for order at 6:31 PM.

2. Roll Call.

3. Additions/Deletions: There was a proposed deletion of item 6.2.2 Plat Review to be replaced by an addition for briefing on a Conditional Use Permit for Walt's Car Wash.

4. Chairman Marchand noted the absence of a quorum, preventing any official action items from being addressed, including the approval of previous meeting minutes and any proposed changes to the agenda. The 6.2.2 Plat Review was not discussed as the parties requested the item be removed prior to the meeting and were not available for the meeting, and briefing on the conditional use permit for Walt's Car Wash was discussed in Miscellaneous. The Planning Commission will evaluate the minutes from the July 3, 2024 meeting at the next Planning Commission meeting, scheduled for August 7, 2024.

5. General Public Testimony: None.

6. **REGULAR BUSINESS**

6.2.1 **CONDITIONAL USE: HUERTA PROPERTIES, LLC**

Planner Frank introduced the request for conditional use for the building formerly known as G&S Staffing, located at 305 7th Street SW. The property was previously mixed use with a commercial main floor and two residential rental units in the basement and upper floor. The Huertas' proposal aims to convert the middle floor to residential, creating a triplex. The property is located in the Central Business (CB) zone, which requires a conditional use permit for triplex use. The presentation included a floor plan/layout of the main floor conversion and the Huertas were present to answer any questions from the Commission. No official action was taken; a public hearing, departmental reviews, and decision are scheduled for the next meeting.

6.2.2 **COMPREHENSIVE PLAN UPDATE: WITH WILLMAR**

Director Corbett discussed the update to the comprehensive plan, defining the plan as an all-inclusive document providing a roadmap for future development and growth, emphasizing land use priorities. Willmar's comprehensive plan update is branded as "WITH WILLMAR" and strives to incorporate great public feedback for the direction of the new plan. Videos were shown explaining the importance and framework of comprehensive plans and land use. The plan will include chapters on community profile, arts and culture, land use, housing, mobility, economic opportunities, conservation, parks and open space, and public facilities. City staff had a successful meeting with the focus group constructed to oversee the plan.

Director Corbett and Planner Frank elaborated on the process of gathering community input, noting the use of surveys, public meetings, and engagement during community events. The first public meeting with be an open house on July 25th, including an 11am-1230pm day session and 5:30pm-8:00pm evening session. There will be subsequent public meetings in August that will focus on particular subjects/chapters. City staff emphasized that Planning Commission will receive regular updates on the progress.

7. **DIRECTOR'S REPORT**

No additional report besides the comprehensive plan update.

8. **MISCELLANEOUS**

Planner Frank introduced a request for conditional use for the storage garage adjacent to Walt's Car Wash. The Planning Commission had previously reviewed this project for the rezoning side of the project and Walt's was now back to begin the Conditional Use Permit needed for the use. Commissioners discussed the previous topics related to positioning of the garage and maintaining the residential character along 3rd St. SW. No official action was taken; a public hearing, departmental reviews, and decision are scheduled for the next meeting.

9. **ADJOURN**

With no further business to discuss, the meeting was adjourned at 7:15 PM. There was no official motion to adjourn as there was no quorum for the meeting and no official action taken.

INC· 1901
WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.D.
Agenda Section:	Consent Items	**Originating Department:**	Recreation
Resolution:	Yes	**Prepared By:**	Rob Baumgarn, Recreation Director
Ordinance:	No	**Presented By:**	Rob Baumgarn, Recreation Director
Item:	Consideration to approve the 2-year lease and advertising agreement with Willmar Warhawks for facility and ice usage at the Willmar Civic Center		

RECOMMENDED ACTION:
Approve the 2-year lease and advertising agreements for the Willmar Warhawks for the 2024-2025 and 2025–2026 seasons.

OVERVIEW:
The Willmar Warhawks request to renew their lease and advertising agreement with the City of Willmar for the 2024-2026 hockey season. The Willmar Warhawks have been leasing space from the City since 2016.

The City of Willmar will receive $42,736.30 for the period of June 1, 2024, through May 31, 2025, and $43,591.02 for the period June 1, 2025, through May 31, 2026, for ice rental as well as office and locker room space. The City of Willmar will also receive an additional $8000 from the Willmar Warhawks for the advertising rights for the in-ice logos and wall/dasher board signs. The advertising agreement is separate from their lease agreement and is also a two-year agreement.

BUDGETARY/FISCAL ISSUES:
2024-2025: $42,736.30 for ice rental and office space, advertising agreement of $8,000: Total $50,736.30
2025-2026: $43,591.02 for ice rental and office space, advertising agreement of $8,000: Total $51,591.02

ALTERNATIVES TO CONSIDER:
Not to renew the lease
Adjust rental rates
Seek a longer lease agreement

ATTACHMENTS:
1. Resolution for Warhawks Facility Agreement 2024
2. Willmar Warhwks Lease Agreement

RESOLUTION NO. _____

RESOLUTION APPROVING THE 2-YEAR LEASE AND ADVERTISING AGREEMENT WITH THE WILLMAR WARHAWKS FOR FACILITY AND ICE USAGE AT THE WILLMAR CIVC CENTER

Motion By:_________________________ Second By:_________________________

BE IT RESOLVED by the City Council of the City of Willmar to adopt a resolution approving the 2-year lease and advertising agreement with Willmar Warhawks for facility and ice usage at the Willmar Civic Center for the 2024-2025 and 2025-2026 season.

Dated this 5th day of August 2024

____
Douglas E. Reese, Mayor

Attest:

____
CITY CLERK

LEASE AGREEMENT

THIS RENTAL AGREEMENT is made this _____ day of ______________,2024 between the City of Willmar (Owner) and The Blizzard, LLC d/b/a the (Team) and Chris Canavati and Mitri Canavati, Individually (Tenant).

PREAMBLE

WHEREAS, the City of Willmar is the owner of the Willmar Civic Center in the City of Willmar, Minnesota, and

WHEREAS, Tenant desires to rent ice time and certain related facilities of the Willmar Civic Center Arena for (Team) hockey games, including administrative office space, and locker room facilities.

NOW, THEREFORE, it is agreed as follows:

ARTICLE I.
Premises

Owner will rent to Tenant the herein defined facilities of the Willmar Civic Center at the defined times and for the amounts as more fully described herein.

ARTICLE II.
Term of Agreement

The terms and conditions of this agreement shall be binding upon the parties for a period of TWO-year commencing June 1, 2024, and for each year thereafter until terminated by either party, upon giving in writing, at least ninety (90) days' notice. The ice season will be from September until March with office/storage space for the whole calendar year.

ARTICLE III.
Office Space

Owner agrees to lease to Tenant such other office space as may be designated by Owner prior to the term of this lease agreement, or any renewal thereof, provided that the designated space is of adequate size and agreed to by the Tenant. The use of the office will be for the calendar year of June 1, 2024-May 31, 2026. All office space equipment and technology needs will be the responsibility of the Tenant.

ARTICLE IV.
<u>Spectator Suite</u>

The suite area will be available for public use upon arrangement between the Owner and Tenant, excluding Willmar Warhawk games and other events sponsored by the Tenant and scheduled with the Owner.

ARTICLE V.
<u>Locker Room Facilities</u>

Owner shall provide Tenant with the use of one team locker room located within the Willmar Civic Center Arena for the exclusive use of the Tenant as designated by Owner prior to the commencement of this lease term or any renewal thereof, provided that the designated space is adequate in size and agreed to by the Tenant. For each home game, Owner will provide Tenant with a visiting team locker room, and an official's room during the (Team) season from September 1, 2024 through April 1, 2026. Storage beyond the season in these areas will be addressed in the rent section of this document.

ARTICLE VI.
<u>Ice Time</u>

Owner agrees to rent to Tenant and Tenant shall be obligated to pay for ice time as follows:

1. Approximately 200 hours of ice time each annual lease term at the ice rink designated by the Owner's manager during non-prime ice rental hours (between 5:00 am and 2:45 pm) for use as hockey practice times. The 200 hours of practice time provided in this agreement will be used between Monday-Friday, September 1, 2024- March 31, 2025, and September 1, 2025- March 31, 2026. Weekend ice times for practice are available for the Tenant at the discretion of the Owner and must be pre-scheduled.

2. The ice time at the main (Cardinal) ice rink, together with associated facilities, to accommodate up to 22 home hockey games, (estimated to consist of four (4) hours for each game). In the event there are postponements of scheduled hockey games and Tenant agrees that it will use reasonable diligence in rescheduling hockey games so as not to conflict with other scheduled Willmar Civic Center Arena activities. City provides a Zamboni driver and 2 maintenance staff for all home games. The Tenant provides staff for other areas including but not limited to security, scoreboard operators and game support staff. Game times will be 7:10 pm with the Tenant having access to the ice 40 minutes before game time.

3. If play-offs are added to the schedule the fee of $750.00 per playoff game will be charge back to the lessee.

The scheduling of ice time usage shall at all times and under all circumstances be coordinated by and between Owner, acting through it's the facility coordinator and the designated person in charge of scheduling for Tenant.

ARTICLE VII.
<u>Rent</u>

Tenant covenants and agrees to pay to Owner for the office facility, locker room facility, and the ice time defined in Article VI, 1 and 2 the amount of $42,736.30 for the period June 1, 2024, through May 31, 2025, and $43,591.02 for the period June 1, 2025, through May 31, 2026. A separate agreement for advertising.

In the event (Team) is eligible for home playoff games, (Team shall pay additional rent in amount consistent with agreed upon regular season home game).

<u>If the tenant has any changes to this lease, NOTICE must be given by April 15, 2025, and/or April 15, 2026</u>.

The tenant must put his changes in writing and turn them in before April 15, 2025, or April 15, 2026.

It is agreed that the tenant and the Willmar Civic Center Arena will meet annually in April to review this contract.

ARTICLE VIII.
<u>Payment of Rent</u>

The rent payments for ice time, office space, locker room, the spectator suite, or any other rent contemplated within this lease agreement shall be paid in installments as follows:

1. September 1, 2024 thru March 31, 2025 – 8 equal payments of $5,446.78
2. September 1, 2025 thru March 21, 2026- 8 equal payments of $5,664.65

The tenant shall also be permitted to charge admission to its ice-related events and home games. The tenant shall retain all gate receipts from such events and be obligated to pay all sales tax thereon.

ARTICLE IX.
<u>Use of Premises</u>

Tenant shall use the premises for the operation of a Junior "A" Tier III hockey team, its office, locker room, regular season and playoff games, tryouts and associated activities. No part of the rented premises shall be used by Tenant for any other purpose without the prior express written consent of Owner. Tenants will be billed for any maintenance issues related directly to their uses beyond normal wear and tear of the facility as used for normal purposes related to this agreement. The reimbursement rate for the use of Owner Staff will be $50.00 per hour. The owner will have a service request form to be filled out for any maintenance requests.

Tenant shall use and occupy the rented premises in a careful, safe and responsible manner. Tennant shall comply with all laws, ordinances and regulations affecting the rented premises. Tenant agrees to defend, indemnify and hold Owner harmless from any and all loss, claim, liability or damage incurred as a result of Tenant's failure to comply with such laws, ordinances or regulations, or though Tenant's failure to occupy the rental premises in a careful, safe and responsible manner.

ARTICLE X.
Assigning and Subletting

Tenant may not assign, sublet, or mortgage this lease or any right hereunder without the express written consent of Owner.

ARTICLE XI.
Maintenance, Responsibilities of Owner and Tenant

Owner shall be responsible for general building maintenance, janitorial services, ice resurfacing, and routine operation and maintenance of the Willmar Civic Center Arena during the rental times subject to this agreement. Owner shall keep the foundation, exterior walls, roof and other items which may be considered structural in nature in good repair but shall not be otherwise obligated to repair or replace any parts of the Willmar Civic Center Arena. Owner shall furnish electricity, water, heat and other utilities at Owner's expense, except for telephone to the Tenant's office which shall be Tenant's responsibility.

Tenant will not deface, injure or damage the premises and will not do or permit to be done on the premises or adjoining ways anything that would constitute a nuisance. Tenant shall, at its own expense, keep the portions of the premises over which they have exclusive use during the term of the lease period, including equipment, fixtures, and appliances located thereon in good repair and in good sanitary condition. If Tenant does not repair or replace any portions of the premises as required by this lease, Owner may repair the same at its discretion, after having given written notice of such need to Tenant. In such event, Tenant shall pay the Owner the cost of such repairs as additional rent.

Tenant shall be responsible for providing necessary ticket sellers, ticket takers, announcers, parking lot attendants, officials as needed, goal judges, scorekeepers, plus not less than one supervisory person on duty for all activities conducted during the times subject to this agreement. Tenant shall be responsible for the sound system and playing of all music before, during and after home games.

ARTICLE XII.
Concessions and Hospitality

Owner shall operate a concession stand in the lobby of facility during all (Team) home games. Owner and tenant agree that profits from sale of concessions shall be shared with 50% of net profit going to WCCA and 50% net profit going to (Team). Owner agrees to grant tenant the right to operate Merchandise and sell alcoholic beverages. Tenants have the right to keep all profits from all sales of Merchandise and Alcoholic beverages. Tenant shall have the right to operate a hospitality area with the ability to provide food, beverages, and alcoholic beverages. During a (Tenant) home game there should be no other concessions or vending machines in operation in the Cardinal Arena.

ARTICLE XIII.
Sales of Alcoholic Beverages

Alcohol may be sold during (Team) games only pursuant to a valid on-sale liquor license issued by the City to Tenant or other eligible licensee. Tenant shall not allow the consumption of any alcoholic beverages in the Willmar Civic Center, except in accordance with such liquor license and subject to all conditions thereof and applicable Willmar ordinances and state laws. Tobacco products may not be advertised, sold or used on the premises.

Tenant agrees that it or the licensed establishment will, at all times when it is engaged in liquor sales on the premises, maintain in full force and effect a “dram shop” insurance policy meeting the requirements of the State of Minnesota for an on-sale intoxicating liquor license, written by a company licensed to do business in the State of Minnesota, and shall name the City an additional insured on the policy.

Security and signage related to the sale of alcohol is the responsibility of the Tenant, the staffing should be sufficient to deter any negative behaviors by the users of the facility. No alcohol will be allowed outside the Cardinal Arena at any time.

ARTICLE XIV.
Insurance

Tenant, at its expense, shall obtain and keep in force during the term of this Agreement, the following insurance coverages in at least the listed minimum amounts:

A. Worker’s Compensation coverage in statutorily required amounts.

B. Employees Liability coverage in limits of One Hundred Thousand Dollars ($100,000.00) per employee.

C. Comprehensive General Liability coverage in limits of not less than Two Million Dollars ($2,000,000.00) per occurrence for personal bodily injury and death, and limits of Two Million Dollars ($2,000,000.00) for leased premises damages liability. Such liability insurance shall additionally cover:

1. Public liability, including premises and operations coverage.

2. Independent contractors—protective contingent liability.

3. Personal injury.

4. Owned, non-owned and hired vehicles.

5. Contractual liability covering the indemnity obligations set forth herein.

6. Dram Shop liability, if applicable under Article XIII.

All policies listed above shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable) and shall apply on a "per occurrence" basis.

With the exception of the Worker's Compensation policies, all policies listed above shall insure the defense and indemnity obligations assumed by Tenant under this Agreement, and shall name Owner as an additional insured under the policy.

All polices listed above shall contain a provision that coverages afforded thereunder shall not be canceled or non-renewed, nor shall coverage limits be reduced by endorsement, without thirty (30) days prior written notice to Owner.

ARTICLE XV.
Indemnity

A. Indemnification of Owner. Tenant shall indemnify, protect, save, hold harmless and insure Owner, and its respective officers, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by Tenant or its agents, employees, contractors or subcontractors with respect to Tenant's performance of its obligations under this Agreement or its presence on or use of the Premises, or that of Tenant's employees, members, board, officers, agents, volunteers, clients and invitees. Tenant shall defend Owner against the foregoing, or litigation in connection with the foregoing, at Tenant's expense, with counsel reasonably acceptable to Owner. Owner, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of Owner. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.

B. Assumption of Risk. Tenant knows, understands and acknowledges the risks and hazards associated with using the Premises for the purposes stated herein and hereby assumes any and all risks and hazards associated therewith. Tenant hereby irrevocably waives any and all claims against the Owner or any of its officials, employees or agents for any bodily injury (including death), loss or property damage incurred by Tenant as a result of Tenant's use of the Premises, and hereby irrevocably releases and discharges the Landlord and any of its officials, employees or agents from any and all claims of liability.

ARTICLE XVI.
Alterations

Tenant shall make no alterations, changes, or improvements to the rental premises without the written consent of Owner's representative (Willmar Civic Center Manager).

ARTICLE XVII.
Security

Tenant shall provide security for all games sufficient to maintain order and provide adequate safety for all people attending games.

ARTICLE XVIII.
Damage to Willmar Civic Center Arena

Any damage to the Willmar Civic Center Arena, interior or exterior, occurring as a result of Tenant's use of the premises will be repaired at the expense of Tenant unless caused solely by the negligence of Owner.

ARTICLE XIX.
Damage or Destruction

If the Willmar Civic Center Arena shall be destroyed or damaged by fire or other casualty to any extent which prevents the WCCA from being used for the purposes intended by this agreement, Owner may elect to rebuild/repair or give notice terminating this lease. Owner shall give written notice to Tenant of its election within thirty (30) days after damage or destruction. If Tenant is unable to use WCCA facilities, a proportionate part of the rent shall be abated for any time during which Tenant is unable to utilize the rental premises.

In the event of damage by fire or other casualty resulting in damage to Tenant's property, Tenant shall be obligated to fully repair or replace all its exterior or interior signs, trade fixtures, furniture, equipment, display cases, advertising and other personal property and improvements originally installed by Tenant at its expense.

ARTICLE XX.
Liens

Tenant shall not permit any mechanic's or other lien against the rental property or the Owner arising out of any act or omission of Tenant. Tenant may contest the validity or amount of any lien if Tenant shall give Owner security required by Owner to insure payment or prevent any forfeiture of the property. Tenant shall pay any judgments and have all liens released or judgments satisfied at Tenant's expense.

ARTICLE XXI.
Default

If Tenant shall default on any of the provisions of this lease, or if Tenant shall make an assignment for the benefit of creditors, enter bankruptcy, receivership or insolvency, Owner, at its election, may give notice to Tenant in writing specifying the default. Tenant shall have thirty (30) days after notice is sent to cure the default. If default continues thereafter, Owner may declare the term of this lease ended and re-enter the premises and the lease shall thereupon terminate. In such event, Owner may, either with our without process of law, enter the premises and expel Tenant and all other persons on the premises using such force as may be necessary to repossess and enjoy the premises without prejudice to any other remedy which might be available.

If Owner is in default under this lease, Tenant, at is election, may give notice to Owner in writing specifying the default. Owner shall have thirty (30) days after notice is sent to cure default.

In the event of a catastrophic failure, Owner agrees to discuss possible solutions with Tenant to cure default. Owner also notifies Tenant that Owner has no insurance coverage for Tenants loss of revenue due to catastrophic failure.

Owner requires a copy of Certificate of Renter's Insurance or letter declining such insurance.

ARTICLE XXII.
Non-Waiver

No waiver by Owner of any breach by Tenant of its obligations hereunder shall be a waiver of any other subsequent or continuing breach. Forbearance by Owner to seek a remedy for any breach by Tenant shall not be a waiver of its rights or remedies with respect to the breach.

ARTICLE XXIII.
Surrender

At the termination of this lease for any reason, Tenant shall quit and surrender the premises in a good condition as when received, reasonable wear and tear and damages by the elements or causes beyond Tenant's control excepted.

Tenant may remove its trade fixtures, equipment and other personal property owned by Tenant at its expense, provided it shall repair all damage caused by removal.

ARTICLE XXIV.
Obligation of Parties

The agreements in this lease shall be binding upon and enforceable by the parties, personal representatives, successors and assigns.

ARTICLE XXV.
Relationship of Parties

Nothing contained in this lease shall be construed to create a relationship of principal and agent, partnership, joint venture or association between Owner and Tenant. Neither the method of computing rent nor any act of the parties, shall create any relationship between the parties other than the relationship of Landlord and Tenant.

ARTICLE XXVI.
Advertising

Tenant, with Owner's consent, may place advertising within the rental premises as more fully specified within a separate agreement made between Owner and Tenant, and any separate agreement allowing Tenant to place advertising within the rental premises shall be made a part of this lease by reference.

ARTICLE XXVII.
Attorney's Fees

In the event either party hereto institutes legal action or proceedings arising out of or in any way connected with this lease agreement, the non-prevailing party shall reimburse the prevailing party for all reasonable expenses incurred in connection therewith, including attorney fees and costs.

ARTICLE XXVIII
Catastrophic Failure

In the event of catastrophic failure, owner agrees to discuss possible solutions with tenant to cure default.

ARTICLE XXIX
Modification of Agreement

Any agreement made between the parties shall be ineffective in changing, modifying, or discharging this lease agreement in whole or in part unless the agreement is in writing and signed by the party against whom enforcement of the change, modification, or discharge is sought. An oral agreement for the modification of the lease agreement in any manner shall be void and of no force and effect.

IN WITNESS WHEREOF, the Owner, acting through the Willmar Civic Center Arena, and Tenant have caused this agreement to be signed as of the date and year first above written.

CITY OF WILLMAR, WILLMAR CIVIC CENTER ARENA	THE BLIZZARD, LLC D/B/A THE BLIZZARD
By_____________________________ Douglas E. Reese, Mayor	By_____________________________ Chris Canavati, President
By_____________________________ Leslie M. Valiant, Administrator	By_____________________________ Mitri Canavati, Vice-President

WILLMAR MINNESOTA
INC. 1901

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.E.
Agenda Section:	Consent Items	**Originating Department:**	Recreation
Resolution:	Yes	**Prepared By:**	Rob Baumgarn, Recreation Director
Ordinance:	No	**Presented By:**	Rob Baumgarn, Recreation Director
Item:	Consideration to approve facility use agreement with Willmar Public Schools		

RECOMMENDED ACTION:
To approve the facility use agreement with the Willmar Public School district to utilize each other's facilities.

OVERVIEW:
This agreement has been in place since 2018. City and school staff have reviewed it, and neither party has raised any significant concerns.
The renewal of the agreement would be for another two years and will automatically renew every year unless a 6-month written notice is received from either party.

BUDGETARY/FISCAL ISSUES:
Per the agreement, each party will not have to pay rent to use the other facilities. If required, there could be fees for custodial, city staff time, or consumable items such as field paint or chalk.

ALTERNATIVES TO CONSIDER:
Make adjustments to the agreement
Don't approve the renewal agreement
ATTACHMENTS:
1. Resolution for WPS Facility 2024
2. 07.15.2024--Facilities Agreement Between ISD 347 and City of Willmar (FINAL UNSIGNED).docx (1)

RESOLUTION NO. ____

RESOLUTION APPROVING THE FACILITY USE AGREEMENT WITH WILLMAR PUBLIC SCHOOLS

Motion By:________________________ Second By:________________________

BE IT RESOLVED by the City Council of the City of Willmar to adopt a resolution approving the facility use agreement with Willmar Public Schools.

Dated this 5th day of August 2024

____

Douglas E. Reese, Mayor

Attest:

____

CITY CLERK

MASTER AGREEMENT
BETWEEN THE CITY OF WILLMAR AND INDEPENDENT SCHOOL DISTRICT #347 REGARDING THE USE OF CITY AND SCHOOL-OWNED FACILITIES
July 1, 2024-June 30, 2026

This **AGREEMENT** is made and entered into by and between the **CITY OF WILLMAR**, a municipal corporation organized under the laws of the state of Minnesota, herein referred to as the “City”, and **INDEPENDENT SCHOOL DISTRICT #347**, a municipal corporation organized under the laws of the State of Minnesota, hereinafter referred to as the “District”.

RECITALS

WHEREAS the District is the owner of certain properties, including green spaces, buildings, and athletic fields, which may be used from time to time by community organizations based within the District for various purposes; and

WHEREAS the City is the owner of certain properties, including parks, buildings, and athletic fields, which may be used from time to time by community organizations based within the district for various purposes; and

WHEREAS it is the desire of both the District and City to enter this agreement, setting forth general guidelines to govern the use of facilities owned by either the District and City; to provide for the maintenance of these facilities; and to identify the responsible party in the event of claims for damages that might arise from such joint use; and

WHEREAS the District and the City have authority to enter into this Use Agreement and take all actions required of each hereby and have taken all actions necessary to authorize the execution and delivery of this Use Agreement.

WITNESSETH, that in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the District and the City hereto recite and agree as follows:

1. The District shall have ultimate and sole jurisdiction over allocation of usage time for scheduling of all facilities, fields, and equipment that are in possession of the District. In the case of events or activities scheduled by the City, the District retains the ultimate right to override, by school board action, scheduling of any proposed event involving a group or activity which the School Board deems to be inconsistent with the District’s values or mission.

2. The City shall have ultimate and sole jurisdiction over allocation of usage time for scheduling of all facilities, fields, and equipment that are in possession of the City. In the case of events or activities scheduled by the District, the City retains the ultimate right to override, by city council action, scheduling of any proposed event involving a group or activity which the City Council deems to be inconsistent with the City’s values or mission.

3. Both the City and the District shall be responsible for maintaining liability and property insurance for their own respective facilities. Each party shall, however, provide for the

other party to be named and an “additional insured party” on their respective insurance policies in the case of losses or damages arising out of the use of facilities as described in the provisions of this Use Agreement.

4. Each of the parties to this Use Agreement is required to provide for and maintain workers compensation insurance, at least to the extent of the minimum coverage required by statute.

5. The facilities governed by this agreement include the following:

   a. *City* -- City Auditorium, Community Center, parks, tennis courts, Swansson Field complex, Baker Diamond, PE classes at Civic Center, Showmobile, Robbins Island; also bleachers, tables, and folding chairs.
   b. *School District* -- school gymnasiums, school cafeterias, tennis courts, Roosevelt soccer fields, Lakeland soccer fields, Middle School athletic fields, High School softball and baseball fields; also bleachers, tables, and folding chairs.

6. The City shall utilize the identified District facilities (see paragraph 5b) without paying a rental fee, and the District shall utilize City facilities (see paragraph 5a) without paying a rental fee. Both parties may incur custodial and other staffing charges for events and activities taking place outside of a normal operating day.

7. The District staff shall maintain, improve and prepare District facilities, even for City events. City staff shall maintain, improve and prepare City facilities, even for District events. This includes but not limited to mowing and lining fields, reconfiguring classrooms, and dust mopping gym floors.

8. Scheduling and the use of District facilities shall be prioritized as follows:

   a. First priority will be given to District-sponsored events including varsity athletic events, after-school co-curricular activities and community education activities, physical education classes, and District-sponsored athletic events and practices in season.

   b. Second priority will be City scheduling of District facilities, without charge other than those occurred under paragraph 6, at times that do not conflict with District scheduled events as listed in paragraph 8(a) above. It is agreed that the events scheduled during these times will be limited to contests and events sponsored by the City on behalf of sports and community organizations based within the City and serving primarily Willmar residents.

   c. For District-owned soccer, baseball, and soccer fields, the City is allowed to request facility hours in time-blocks and then assign smaller time segments from these blocks to individual Parks & Recreation teams and/or leagues. The City is not allowed to sublet these, or other, District facilities to outside entities, nor are they allowed to charge a fee for said facilities.

9. Scheduling and the use of City facilities shall be prioritized as follows:

a. First priority will be given to City-sponsored events including City of Willmar meetings, programs, and activities, along with City Recreation programs.

b. Second priority will be District scheduling of City facilities, without charge other than those occurred under paragraph 5(a), at times that do not conflict with City scheduled events as listed in paragraph 8(a) above. It is agreed that the events scheduled during these times will be limited to contests and events sponsored by the District on behalf of varsity sports, adult and youth enrichment, and community events based within the District and serving primarily Willmar residents.

10. The District shall not install equipment on the property owned by the City, in any manner either permanent or temporary, without prior written consent from the City. Likewise, the City shall not install equipment on the property owned by the District, in any manner either permanent or temporary, without prior written consent from the District.

11. Each party is responsible for any damage or repair costs that are incurred while using the other's facilities.

12. Both parties agree that responsible adults must supervise all activities for the entire duration of usage time and until all participants have left the facility. Children must be supervised at all times (including hallways and bathrooms).

13. To the extent permitted by law, the parties shall each indemnify, protect, save, hold harmless and insure the other party as follows:

a. The District shall indemnify, protect, save, hold harmless and insure the City, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the District or its agents, employees, contractors, subcontractors, or sub-consultants with respect to the District's performance of its obligations under this Agreement. The District shall defend the City against the foregoing, or litigation in connection with the foregoing, at the District's expense, with counsel reasonably acceptable to the City. The City, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Article shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the City. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.

b. The City shall indemnify protect, save, hold harmless and insure the District, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the City or its agents, employees, contractors, subcontractors or sub-consultants with respect to the City's performance of its obligations under this Agreement. The City shall defend the District against the foregoing, or litigation in connection with the foregoing, at the City's expense, with counsel reasonably acceptable to the District. The District, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Article shall not apply to damages or other losses proximately caused by or resulting from the gross negligence or willful misconduct of the District. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.

c. To the fullest extent permitted by law, action 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 purpose of liability, as set forth in Minn. Stat. § 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.

d. The parties to this Agreement are not liable for the acts or omissions of the other participants to this Agreement except to the extent to which they have agreed in writing to be responsible for the acts or omissions of the other Parties.

e. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against the City or the District.

14. The District and City, by their appointed representative(s), shall meet at least annually, on or before July 1, to review the permitting and scheduling of District and City facilities.

15. This agreement shall be interpreted under the laws of the state of Minnesota and the covenants, stipulation and conditions herein contained shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto and may be amended, if necessary, to comply with statutory and regulatory requirements to which the parties are subject.

16. This agreement will automatically renew for additional one-year terms upon its expiration on June 30, 2026, with renewal annually thereafter, unless either party submits a change that would modify a term or condition of this agreement or gives the other party notice at least six months prior to the expiration of the renewal term that it wishes to terminate the agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day following final approval by the governing boards of the two parties.

CITY OF WILLMAR INDEPENDENT SCHOOL DISTRICT #347

BY: ________________________________ BY: _________________________________

Its Mayor AND City Administrator/Clerk

BY:_________________________________BY: _________________________________

Its Board Chair AND Its Superintendent

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.F.
Agenda Section:	Consent Items	**Originating Department:**	Recreation
Resolution:	Yes	**Prepared By:**	Rob Baumgarn, Recreation Director
Ordinance:	No	**Presented By:**	Rob Baumgarn, Recreation Director
Item:	Consideration of the Glacial Ridge Curling advertisement agreement for Blue Line Arena at the Willmar Civic Center		

RECOMMENDED ACTION:
To adopt a resolution to approve the agreement with Glacial Ridge Curling for advertising rights on the west wall of the Blue Line Arena.

OVERVIEW:
Glacial Ridge Curling requests advertising signage on the West Wall in the Blue Line Arena at the Willmar Civic Center. The proceeds from the advertising sales will go to Glacial Ridge Curling for scholarships, youth program needs, and facility improvements.

BUDGETARY/FISCAL ISSUES:
In the agreement, Glacial Ridge Curling is responsible for all advertising costs, installation, removal, and any needed repairs to the advertising signs. The agreement costs $1.00.

ALTERNATIVES TO CONSIDER:
Don't approve the agreement as presented
Make corrections to the agreement

ATTACHMENTS:
1. Resolution for GRC Advertising
2. Advertising Agreement WHB Blue Line 2024 2025
3. BLA 1
4. BLA2

RESOLUTION NO. _____

RESOLUTION APPROVING THE CONTRACT WITH GLACIAL RIDGE CURLING FOR ADVERTISING RIGHTS ON THE WEST WALL OF THE BLUE LINE ARENA

Motion By:________________________ Second By:________________________

BE IT RESOLVED by the City Council of the City of Willmar to approve an agreement with the Glacial Ridge Curling Club for advertising rights on the west wall of the Blue Line Arena.

Dated this 5th day of August 2024

____
Douglas E. Reese, Mayor

Attest:

____
CITY CLERK

AGREEMENT FOR THE DELEGATION OF ADVERTISING SALES IN THE BLUE LINE ARENA~~AT THE CITY OF WILLMAR~~

THIS AGREEMENT~~,~~ is made this _____ day of ________________,20____ between the City of Willmar (Owner of the Blue Line Arena at the Willmar Civic Center)., d/b/a GLACIAL RIDGE CURLING (GRC), Minnesota nonprofit corporation.

PREAMBLE

WHEREAS its primary tenant is the GRC, and

WHEREAS the GRC desires to arrange for and manage more efficiently the sale of advertising in the Blue Line Arena West Wall at the Willmar Civic Center, which the GRC rents through a lease agreement covering the period from Nov 1st, 2024, until March 31st, 2025~~2~~.

WHEREAS, pursuant to Minn. Stat. § 471.16, the City of Willmar finds it desirable to cooperate with GRC and delegate to GRC the specific authority to serve as the CITY OF WILLMAR's agent to arrange the sale of advertising space for the portion of the facility known as the "Blue Line Area," to be sold on the west wall, by the GRC, in the Blue Line Area at the Civic Center of the City of Willmar, shown in Exhibit A.

NOW, THEREFORE, it is agreed as follows:

SECTION I.

ADVERTISING RIGHTS

In consideration of the benefits recited herein, the City of Willmar delegates and gives authority to the GRC the right to arrange for, promote, and sell advertising space within the Blue Line Arena at the Civic Center of the City of Willmar. This agreement expressly includes and reserves to the GRC all rights to sell and arrange for advertising upon the WEST Wall on the Blue Line Arena~~.~~ shown in Exhibit A; provided, however, that GRC shall use any proceeds of such advertising sales solely in furtherance of Curling operations and programming.

SECTION II.

TERM OF AGREEMENT

This agreement shall be in full force and effect from November 1st, 2024, to March 31st, 2025. It will automatically renew for one year unless either party gives written notice of any changes within 60 days of the renewal date.

SECTION III.

SCOPE OF AUTHORITY DELEGATED

The City of Willmar delegates to the GRC the right to sell, arrange for, and contract for the advertising defined herein in the Blue Line Arena in the Willmar Civic Center during the term of this agreement. This agreement will be presented to the Parks and Recreation Director, the Parks and Recreation Board, and the City Council for approval.

SECTION IV.

RESERVED RIGHTS

The City of Willmar reserves the right to specifically approve all Blue Line Arena advertising sold by the GRC during the term of this agreement and meet all city ordinances. No advertising signs shall be erected or placed until approval from the Parks and Recreation Director has been given. The parties agree that the City of Willmar, in permitting GRC to sell and install advertising at the Blue Line Arena, is not creating a forum for public speech protected by the United States or Minnesota constitutions. In furtherance of the City of Willmar's objectives of minimizing chances of ~~abuse,~~abuse, the appearance of favoritism, and the risk of imposing on a captive audience, the Owner hereby reserves the right to reject any banner, sign, or other advertising media that it deems inappropriate or offensive, and expressly prohibits the display of political signage in any portion of the Blue Line Arena, the Civic Center, or its grounds. This prohibition includes any materials endorsing or promoting or otherwise related to candidates for political office or political parties.

SECTION V

PAYMENT

In consideration of the privileges delegated by this agreement, the GRC will pay the City of Willmar a $1.00 annual fee.

SECTION VI

INSTALLATION AND REMOVAL OF ADVERTISING

The City of Willmar shall reserve the authority to approve the design/wording/layout and specific placement location of all advertising during the term of this agreement, and the GRC is responsible for the installation and removal of all advertising at the expiration of this agreement. The GRC shall be responsible for paying all costs for the design, fabrication, and installation of all advertising signs and any repairs to the West wall areas (if warranted) on the Blue Line Arena in the Civic Center in the City of Willmar.

IN WITNESS WHEREOF, the City of Willmar and the GRC have caused this agreement to be signed as of the date and year first above written.

CITY OF WILLMAR

By:_____________________________
Douglas E. Reese, Mayor

By:_____________________________
Leslie M. Valiant, City Administrator

~~By_____________________________~~
~~Rob Baumgarn, Parks and Recreation Director~~

GLACIAL RIDGE CURLING

By:_____________________________
Don Nelson, President

By:_____________________________
Jake Vlamick, Vice President

~~By_____________________________~~


AMERICAN LEAGUE CHAMP
2020 - 2021
NORM'S RAIDERS
THURSDAY LEAGUE CHAMP
2022 - 2023
ROCK SOLID
THURS. LEAGUE CHAMP
2021 - 2022
ROCK SOLID
marcus
HOPE


STACY'S NURSERY
EST. 1978
235-6010
JAKE'S PIZZA
Lunch Special
MON-FRI · 11-2
320.235.1714
DOWNTOWN WILLMAR
FEDERATED INSURANCE
Matt Dawson
AMERICAN LEAGUE CHAMP
AMERICAN LEAGUE CHAMP
2020 - 2021
NORM'S RAIDERS
AMERICAN LEAGUE CHAMP
2019 - 2020
THURS. LEAGUE CHAMP

INC· 1901

WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.G.
Agenda Section:	Consent Items	**Originating Department:**	Recreation
Resolution:	Yes	**Prepared By:**	Rob Baumgarn, Recreation Director
Ordinance:	No	**Presented By:**	Rob Baumgarn, Recreation Director
Item:	Consideration to approve West Central Roofing Contractor contract to repair Civic Center Shop Roof		

RECOMMENDED ACTION:
To adopt a resolution approving the contract with West Central Roofing Contractors, Inc. to repair the Civic Center shop roof for the amount of $23,237.98

OVERVIEW:
The Civic Center shop roof is leaking and needs to be replaced. One of the significant concerns about the roof is where the old cooling tower was located. In 2017, the City replaced the refrigeration system. When the cooling tower was removed, the roof should have been replaced at this time. Instead, repairs were made to the roof area. The staff received three quotes and its staff recommendation to approve the contract with West Central Roofing. The roof will have a 20-year warranty and will have welded seams instead of taped or glued. We currently have two other roofs with this same system and haven't had any issues. Funding will come from the 2024 capital improvement plan.

BUDGETARY/FISCAL ISSUES:
There is $35,000 allocated for this project through the 2024 capital improvement plan. The cost for the roof project is $23,237.98.

ALTERNATIVES TO CONSIDER:
Reject the contract
Seek other roofing options
ATTACHMENTS:
1. Resolution for Shop Roof
2. West Central Roofing Shop Roof Quote
3. Hertiage Exteriors Quote

RESOLUTION NO. _____

RESOLUTION APPROVING THE CONTRACT WITH WEST CENTRAL ROOFING CONTRACTOR TO REPAIR THE CIVIC CENTER SHOP ROOF

Motion By:________________________ Second By:________________________

BE IT RESOLVED by the City Council of the City of Willmar to approve a contract with West Central Roofing Contractor to repair the Civic Center Shop Roof.

Dated this 5th day of August 2024

____
Douglas E. Reese, Mayor

Attest:

____
CITY CLERK

emailed
4/18/2024
8:32am

West Central Roofing Contractors, Inc.

PO Box 1292 ~ 4030 Hwy 71 NE
Willmar MN 56201
Telephone (320) 235-8748 Fax (320) 214-7334

License# RR627812

CONTRACT# 7214

PROPOSAL SUBMITTED TO:		WORK TO BE PERFORMED AT:	
City of Willmar P.O. Box 755 Willmar, MN 56201		Shop, 1104 SqF, Duro-Last Willmar, MN 56201	
HOME PHONE:	WORK PHONE: (320) 235-4202	ESTIMATOR: Kal Torkelson	DATE: 4/17/2024

We hereby submit specifications and estimates for:

1. Tear off old membrane to insulation and dispose of
2. Remove Penetrations that are not needed
3. Remove loose rock from the roof
4. Sweep and clean debris from the roof
5. Installation of Fan Fold Insulation
6. Insulation fastened with screws and plates (1 per 2 SQ. FT)
7. Duro-Last Roofing System, White, Tan or, Gray
8. Secure edges and flash walls
9. Flash up the wall and Counterflash
10. Boots at vents
11. Flash Scuppers
12. Tie in as needed
13. Remove and reinstall metal copings
14. Installation of new scuppers
15. Owner to provide plumber (if needed)
16. Owner to provide mechanical contractor (if needed)
17. 20 year Labor and Materials Warranty by Manufacturer
18. OWNER TO PROVIDE BUILDING PERMIT

Includes Removal of Concrete Supports (2)

NOTE: Due to volatility of the roofing market, prices are subject to change without notice.
Lead times and changes to deliveries are dictated by the manufacturer

This is the **Best** Roofing System on the Market!!

All seams are heat welded (fused) together – not glued or taped

WE PROPOSE hereby to furnish material and labor for the sum of:

Twenty Three Thousand Two Hundred Thirty Seven Dollars And Ninety Seven Cents dollars (**$23,237.98**).

Payable as follows:

50% down payment is required, balance due upon completion, if down payment is not received with signed contract, we cannot guarantee material pricing and may change due to the volatile material prices

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be sceeuted only upon written orders, and will become an extra charge over and above the estimate. Replacement of damaged decking or insulation to be completed on a labor and materials basis. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature Kali D. Torkelson

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

CONTRACT TERMS AND CONDITIONS OF SALE: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. A 1 1/2% (18% APR) late fee will be charged on all unpaid balances over 60 days. In event of default by buyer, buyer agrees to pay all costs of collection including reasonable attorneys fees in addition to other damages incurred by seller.

ACCEPTANCE OF PROPOSAL: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature ________________ Date ________

CONTRACT# 7214

PROPOSAL SUBMITTED TO: City of Willmar P.O. Box 755 Willmar, MN 56201		WORK TO BE PERFORMED AT: Shop, 1104 SqF, Duro-Last Willmar, MN 56201	
HOME PHONE:	WORK PHONE: (320) 235-4202	ESTIMATOR: Kal Torkelson	DATE: 4/17/2024

We hereby submit specifications and estimates for:

A)ANY PERSON OR COMPANY SUPPLYING LABOR OR MATERIALS FOR THIS IMPROVEMENT TO YOUR PROPERTY MAY FILE A LIEN AGAINST YOUR PROPERTY IF THAT PERSON OR COMPANY IS NOT PAID FOR THE CONTRIBUTIONS.
B)UNDER MINNESOTA LAW, YOU HAVE THE RIGHT TO PAY PERSONS WHO SUPPLIED LABOR OR MATERIALS FOR THIS IMPROVEMENT DIRECTLY AND DEDUCT THIS AMOUNT FROM OUR CONTRACT PRICE, OR WITHHOLD THE AMOUNTS DUE THEM FROM US UNTIL 120 DAYS AFTER COMPLETION OF THE IMPROVEMENT UNLESS WE GIVE YOU A LIEN WAIVER SIGNED BY PERSONS WHO SUPPLIED ANY LABOR OR MATERIAL FOR THE IMPROVEMENT AN WHO GAVE YOU TIMELY NOTICE.

WE PROPOSE hereby to furnish material and labor for the sum of:
Twenty Three Thousand Two Hundred Thirty Seven Dollars And Ninety Seven Cents dollars (**$23,237.98**).

Payable as follows:
50% down payment is required, balance due upon completion, if down payment is not received with signed contract, we cannot guarantee material pricing and may change due to the volatile material prices

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be scecuted only upon written orders, and will become an extra charge over and above the estimate. Replacement of damaged decking or insulation to be completed on a labor and materials basis. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature Keli D. Torkelson

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

CONTRACT TERMS AND CONDITIONS OF SALE:
The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. A 1 1/2% (18% APR) late fee will be charged on all unpaid balances over 60 days. In event of default by buyer, buyer agrees to pay all costs of collection including reasonable attorneys fees in addition to other damages incurred by seller.

ACCEPTANCE OF PROPOSAL: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature ____________________ Date ____________

Heritage Exteriors
3867 Hwy 12 E
Willmar, MN 56201
Phone: (320) 796-5001

07/02/2024

Company Representative
Ben Nelson
Phone: (320) 295-3395
ben@heritage-exteriors.com

Willmar Civic Center
2707 Arena Drive
Willmar, MN 56201
(320) 491-1024

East side flat roofing

Remove and dispose of existing chipped rock ballast. Remove current EPDM membrane and any wet/damaged insulation. Reinstall and properly slope new ISO insulation to drain water to the exterior edge. Remove old AC mounting blocks (concrete) for smooth surface. Install new .060 mil EPDM membrane with new ballast, and replace perimeter edge metals.

	Qty	Unit	Per Unit Charge	Price
Mulehide EPDM Sheet - 3" Tape - Clean - .060 - 10'x100' - Black	1.50	RL	$1,773.85	$2,660.77
Custom bent steel cap flashing	70.00	LF	$23.08	$1,615.38
ISO Insulation				$4,133.17
EPDM Accessories				$3,014.08
Disposal/equipment/hauling				$2,446.15
EPDM roofing labor	12.00	SQ	$635.00	$7,620.00
Install perimeter metal	70.00	LF	$12.31	$861.70
Labor to delete old AC condenser blocks	6.00	HR	$100.00	$600.00
				$22,951.25

Snow Guard Section

	Qty	Unit	Per Unit Charge	Price
S5 Pre-punched aluminum 8' bar	26.00	EA	$85.00	$2,210.00
S5 Snow clip III	148.00	EA	$10.00	$1,480.00
S5 S-5-H Clamp for Magna Loc 90 style panel	166.00	EA	$32.00	$5,312.00
2"x10' Color insert 24 gauge	21.00	EA	$30.00	$630.00
Shipping & Handling	1.00	EA	$250.00	$250.00
Labor to install snow guards	48.00	HR	$100.00	$4,800.00
				$14,682.00

TOTAL	$37,633.25

INC· 1901

WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.H.
Agenda Section:	Consent Items	**Originating Department:**	Recreation
Resolution:	Yes	**Prepared By:**	Rob Baumgarn, Recreation Director
Ordinance:	No	**Presented By:**	Rob Baumgarn, Recreation Director
Item:	Consideration to approve the contract with West Central Roofing Contractors, Inc for the installation of Civic Center snow guards.		

RECOMMENDED ACTION:
To adopt a resolution approving the contract with West Central Roofing Contractors, Inc. for the installation of snow guards on the Civic Center metal roof for the amount of $10,305.37

OVERVIEW:
Back in 2017, the Civic Center roof was replaced with metal roofing. Over the past few years, when we received heavy snowfall, the snow would slide down the roof and damage the rooftop units or ventilation pipes. The snow guards will deflect/hold the snow coming down. The city received two quotes for the project and recommends approving the contract with West Central Roofing Contractors, Inc. to install 260 feet of snow guards on the Civic Center metal roof for $10,305.37. Staff will evaluate to determine if more snow guards will be required next year.

BUDGETARY/FISCAL ISSUES:
Funding for this project will come from the 2024 capital improvement plan. $35,000 is allocated for this project. Additional snow guards may need to be required later.

ALTERNATIVES TO CONSIDER:
Deny the contract
Seek other options

ATTACHMENTS:
1. Resolution for Snow Guards
2. West Cenral Roofing Snow Guards Quote
3. Hertiage Exteriors Quote

RESOLUTION NO. _____

RESOLUTION APPROVING THE CONTRACT WITH WEST CENTRAL ROOFING CONTRACTOR FOR THE INSTALLATION OF THE CIVC CENTER SNOW GUARDS

Motion By:_______________________ Second By:_______________________

BE IT RESOLVED by the City Council of the City of Willmar to approve a contract with West Central Roofing Contractor for the installation of the Civic Center snow guards for the amount of $10,305.37.

Dated this 5th day of August 2024

____
Douglas E. Reese, Mayor

Attest:

____
CITY CLERK

West Central Roofing Contractors, Inc.

PO Box 1292 ~ 4030 Hwy 71 NE
Willmar MN 56201
Telephone (320) 235-8748 Fax (320) 214-7334

License# RR627812

CONTRACT# 7215

PROPOSAL SUBMITTED TO:		WORK TO BE PERFORMED AT:	
City of Willmar P.O. Box 755 Willmar, MN 56201		Civic Center South Side Sno/ice gurards metal roof Willmar, MN 56201	
HOME PHONE:	WORK PHONE: (320) 235-4202	ESTIMATOR: Kal Torkelson	DATE: 4/17/2024

We hereby submit specifications and estimates for:

1. Approximately 260'
2. Install 2 rows of snow guard per penetration (14) or addition (2)
3. Install color match close as possible
4. Includes lift
5. Clean up if needed
6. To be completed on time and materials not to exceed $10,305.37

WE PROPOSE hereby to furnish material and labor for the sum of:

Ten Thousand Three Hundred Five Dollars And Thirty Seven Cents dollars (**$10,305.37**).

Payable as follows:

50% down payment is required, balance due upon completion, if down payment is not received with signed contract, we cannot guarantee material pricing and may change due to the volatile material prices

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be scecuted only upon written orders, and will become an extra charge over and above the estimate. Replacement of damaged decking or insulation to be completed on a labor and materials basis. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature Kal D. Torkelson

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

CONTRACT TERMS AND CONDITIONS OF SALE: The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. A 1 1/2% (18% APR) late fee will be charged on all unpaid balances over 60 days. In event of default by buyer, buyer agrees to pay all costs of collection including reasonable attorneys fees in addition to other damages incurred by seller.

ACCEPTANCE OF PROPOSAL: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature ____________________ Date __________

CONTRACT# 7215

PROPOSAL SUBMITTED TO:		WORK TO BE PERFORMED AT:	
City of Willmar P.O. Box 755 Willmar, MN 56201		Civic Center South Side Sno/ice gurards metal roof Willmar, MN 56201	
HOME PHONE:	WORK PHONE: (320) 235-4202	ESTIMATOR: Kal Torkelson	DATE: 4/17/2024

We hereby submit specifications and estimates for:

A)ANY PERSON OR COMPANY SUPPLYING LABOR OR MATERIALS FOR THIS IMPROVEMENT TO YOUR PROPERTY MAY FILE A LIEN AGAINST YOUR PROPERTY IF THAT PERSON OR COMPANY IS NOT PAID FOR THE CONTRIBUTIONS.
B)UNDER MINNESOTA LAW, YOU HAVE THE RIGHT TO PAY PERSONS WHO SUPPLIED LABOR OR MATERIALS FOR THIS IMPROVEMENT DIRECTLY AND DEDUCT THIS AMOUNT FROM OUR CONTRACT PRICE, OR WITHHOLD THE AMOUNTS DUE THEM FROM US UNTIL 120 DAYS AFTER COMPLETION OF THE IMPROVEMENT UNLESS WE GIVE YOU A LIEN WAIVER SIGNED BY PERSONS WHO SUPPLIED ANY LABOR OR MATERIAL FOR THE IMPROVEMENT AN WHO GAVE YOU TIMELY NOTICE.

WE PROPOSE hereby to furnish material and labor for the sum of:

Ten Thousand Three Hundred Five Dollars And Thirty Seven Cents dollars (**$10,305.37**).

Payable as follows:

50% down payment is required, balance due upon completion, if down payment is not received with signed contract, we cannot guarantee material pricing and may change due to the volatile material prices

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from above specification involving extra costs will be scecuted only upon written orders, and will become an extra charge over and above the estimate. Replacement of damaged decking or insulation to be completed on a labor and materials basis. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance.

Authorized Signature Kal D. Torkelson

NOTE: This proposal may be withdrawn by us if not accepted within 30 days.

CONTRACT TERMS AND CONDITIONS OF SALE:
The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. A 1 1/2% (18% APR) late fee will be charged on all unpaid balances over 60 days. In event of default by buyer, buyer agrees to pay all costs of collection including reasonable attorneys fees in addition to other damages incurred by seller.

ACCEPTANCE OF PROPOSAL: The prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature ____________ Date ____________

07/02/2024

Heritage Exteriors
3867 Hwy 12 E
Willmar, MN 56201
Phone: (320) 796-5001

Company Representative
Ben Nelson
Phone: (320) 295-3395
ben@heritage-exteriors.com

Willmar Civic Center
2707 Arena Drive
Willmar, MN 56201
(320) 491-1024

East side flat roofing

Remove and dispose of existing chipped rock ballast. Remove current EPDM membrane and any wet/damaged insulation. Reinstall and properly slope new ISO insulation to drain water to the exterior edge. Remove old AC mounting blocks (concrete) for smooth surface. Install new .060 mil EPDM membrane with new ballast, and replace perimeter edge metals.

	Qty	Unit	Per Unit Charge	Price
Mulehide EPDM Sheet - 3" Tape - Clean - .060 - 10'x100' - Black	1.50	RL	$1,773.85	$2,660.77
Custom bent steel cap flashing	70.00	LF	$23.08	$1,615.38
ISO Insulation				$4,133.17
EPDM Accessories				$3,014.08
Disposal/equipment/hauling				$2,446.15
EPDM roofing labor	12.00	SQ	$635.00	$7,620.00
Install perimeter metal	70.00	LF	$12.31	$861.70
Labor to delete old AC condenser blocks	6.00	HR	$100.00	$600.00
				$22,951.25

Snow Guard Section

	Qty	Unit	Per Unit Charge	Price
S5 Pre-punched aluminum 8' bar	26.00	EA	$85.00	$2,210.00
S5 Snow clip III	148.00	EA	$10.00	$1,480.00
S5 S-5-H Clamp for Magna Loc 90 style panel	166.00	EA	$32.00	$5,312.00
2"x10' Color insert 24 gauge	21.00	EA	$30.00	$630.00
Shipping & Handling	1.00	EA	$250.00	$250.00
Labor to install snow guards	48.00	HR	$100.00	$4,800.00
				$14,682.00

TOTAL	$37,633.25

INC· 1901

WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.I.
Agenda Section:	Consent Items	**Originating Department:**	Public Works
Resolution:	Yes	**Prepared By:**	Kelsi Delbosque, Administrative Assistant
Ordinance:	No	**Presented By:**	Jared Voge, P.E. City Engineer
Item:	Accept and approve Final payment for Project No. 2210 TH 12 Liftstation		

RECOMMENDED ACTION:
Adopt the resolution accepting Project No. 2210 and authorizing final payment to Tom's Backhoe Service, Inc. in the amount of $55,585.80.

OVERVIEW:
Project No. 2210, the elimination of the TH 12 Lift Station, was awarded to Tom's Backhoe Service, Inc. at the April 18, 2022 Council Meeting. The project included the elimination of the existing lift station on TH 12 and rerouting all sanitary sewer by gravity flow to the Western Interceptor line, which is designed to handle additional volume and allow for future development.
All quantities have been reviewed by staff with the recommendation final payment be made.

BUDGETARY/FISCAL ISSUES:
Final payment is within the project budget.

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
1. RESOLUTION- ACCEPT PROJECT FINAL PROJECT NO. 2210
2. Project No. 2210 Final Pay Application

Resolution No.

A RESOLUTION ACCEPTING PROJECT NO. 2210 AND AUTHORIZING FINAL PAYMENT.

Motion By:______________ Second By:_____________

IMPROVEMENT: Project No. 2210: TH 12 Lift Station Elimination

CONTRACTOR:	Tom's Backhoe Service, Inc.
DATE OF CONTRACT:	April 18, 2022
BEGIN WORK:	May 30, 2022
COMPLETE WORK:	July 8, 2024
APPROVE, ENGINEERING DEPT:	July 15, 2024

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, that:

1. The said City of Willmar TH 12 Lift Station Elimination Project be herewith approved and accepted by the City of Willmar.

2. The following summary and final payment be approved:

ORIGINAL CONTRACT AMOUNT:	$2,664,319.00
CHANGE ORDER NO. 1	$1,000.00
CHANGE ORDER NO. 2	$130,188.31
CHANGE ORDER NO. 3	($16,217.15)
FINAL NET CONTRACT AMOUNT, PROPOSED:	$2,779,290.16
ACTUAL FINAL CONTRACT AMOUNT AS CONSTRUCTED:	$2,779,290.16
Less Previous Payments	$2,723,704.36
FINAL PAYMENT DUE CONTRACTOR:	**$55,585.80**

Dated this 5th day of August, 2024

____
Mayor

Attest:

____
City Clerk

Contractor's Application for Payment

Owner:	City of Willmar	**Owner's Project No.:**	2210
Engineer:	Bolton & Menk, Inc.	**Engineer's Project No.:**	0W1.123965
Contractor:	Tom's Backhoe Service, Inc.	**Agency's Project No.:**	
Project:	TH 12 Lift Station Elimination Project		
Contract:	TH 12 Lift Station Elimination Project		

Application No.: 10 (FINAL) **Application Date:** 7/15/2024

Application Period: **From** 9/30/2023 **to** 7/15/2024

1. Original Contract Price	$	2,664,319.00
2. Net change by Change Orders	$	114,971.16
3. Current Contract Price (Line 1 + Line 2)	$	2,779,290.16
4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total)	$	2,779,290.16
5. Retainage		
a. ______ X $ 2,779,290.16 Work Completed	$	-
b. ______ X $ - Stored Materials	$	-
c. Total Retainage (Line 5.a + Line 5.b)	$	-
6. Amount eligible to date (Line 4 - Line 5.c)	$	2,779,290.16
7. Less previous payments	$	2,723,704.36
8. Amount due this application	$	55,585.80
9. Balance to finish, including retainage (Line 3 - Line 4)	$	-

Contractor's Certification

The undersigned Contractor certifies, to the best of its knowledge, the following:

(1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;

(2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and

(3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective; and

(4) The provisions of M. S. 290.92 have been complied with and that all claims against me by reason of the Contract have been paid or satisfactorily secured.

Contractor: Tom's Backhoe Service, Inc.

Signature: Kathy Thompson **Date:** 7-16-24

Name: Kathy Thompson **Title:** CFO

Recommended by Engineer		**Approved by Owner**	
By:	Joshua J. Halvorson (signature)	**By:**	Justin DeLeeuw (signature)
Name:	Joshua J. Halvorson	**Name:**	Justin DeLeeuw
Title:	Principal Engineer	**Title:**	Public Works Director
Date:	7/15/2024	**Date:**	7/26/2024

EJCDC C-620 Contractor's Application for Payment

Progress Estimate - Unit Price Work **Contractor's Application for Payment**

Owner:	City of Willmar	**Owner's Project No.:**	**2210**
Engineer:	Bolton & Menk, Inc.	**Engineer's Project No.:**	**0W1.123965**
Contractor:	Tom's Backhoe Service, Inc.	**Agency's Project No.:**	
Project:	TH 12 Lift Station Elimination Project		
Contract:	TH 12 Lift Station Elimination Project		

Application No.: 10 (FINAL) **Application Period:** From 09/30/23 to 07/15/24 **Application Date:** 07/15/24

A	B	C	D	E	F	F1	F2	G	H	I	J	K	L
		Contract Information				Previous Estimate		Work Completed					
Bid Item No.	Description	Item Quantity	Units	Unit Price ($)	Value of Bid Item (C X E) ($)	Quantity Previous Estimate	Value Previous Estimate	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) ($)	Materials Currently Stored (not in G) ($)	Work Completed and Materials Stored to Date (H + I) ($)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) ($)
						Original Contract							
1	MOBILIZATION	1.00	LUMP SUM	225,000.00	225,000.00	1.00	225,000.00	1.00	225,000.00		225,000.00	100%	-
2	TRAFFIC CONTROL	1.00	LUMP SUM	40,000.00	40,000.00	1.00	40,000.00	1.00	40,000.00		40,000.00	100%	-
3	RAILROAD PROTECTIVE LIABILITY INSURANCE	1.00	LUMP SUM	7,500.00	7,500.00	1.00	7,500.00	1.00	7,500.00		7,500.00	100%	-
4	REMOVE CONCRETE SANITARY SEWER PIPE (ANY SIZE)	636.00	LIN FT	10.00	6,360.00	681.00	6,810.00	681.00	6,810.00		6,810.00	107%	(450.00)
5	REMOVE STORM SEWER PIPE (ANY SIZE)	106.00	LIN FT	10.00	1,060.00	115.00	1,150.00	115.00	1,150.00		1,150.00	108%	(90.00)
6	REMOVE WATERMAIN (ANY SIZE)	725.00	LIN FT	10.00	7,250.00	265.00	2,650.00	265.00	2,650.00		2,650.00	37%	4,600.00
7	REMOVE CONCRETE CURB & GUTTER	2,250.00	LIN FT	4.00	9,000.00	2,063.00	8,252.00	2,063.00	8,252.00		8,252.00	92%	748.00
8	REMOVE CONCRETE PAVEMENT	710.00	SQ YD	7.00	4,970.00	639.00	4,473.00	639.00	4,473.00		4,473.00	90%	497.00
9	REMOVE BITUMINOUS PAVEMENT (STREET)	4,710.00	SQ YD	5.25	24,727.50	4,710.00	24,727.50	4,710.00	24,727.50		24,727.50	100%	-
10	REMOVE BITUMINOUS PAVEMENT (DRIVEWAY)	160.00	SQ YD	4.50	720.00	160.00	720.00	160.00	720.00		720.00	100%	-
11	REMOVE HYDRANT	2.00	EACH	400.00	800.00	2.00	800.00	2.00	800.00		800.00	100%	-
12	REMOVE DRAINAGE STRUCTURE	3.00	EACH	400.00	1,200.00	3.00	1,200.00	3.00	1,200.00		1,200.00	100%	-
13	REMOVE MANHOLE (SANITARY)	4.00	EACH	600.00	2,400.00	4.00	2,400.00	4.00	2,400.00		2,400.00	100%	-
14	SAND FILL EXISTING SANITARY SEWER MAIN (ANY SIZE)	400.00	LIN FT	8.00	3,200.00	145.00	1,160.00	145.00	1,160.00		1,160.00	36%	2,040.00
15	SALVAGE SIGN	2.00	EACH	50.00	100.00	2.00	100.00	2.00	100.00		100.00	100%	-
16	SALVAGE CASTING	3.00	EACH	50.00	150.00	2.00	100.00	2.00	100.00		100.00	67%	50.00
17	SALVAGE HYDRANT	1.00	EACH	1,500.00	1,500.00	1.00	1,500.00	1.00	1,500.00		1,500.00	100%	-
18	SALVAGE VALVE	2.00	EACH	600.00	1,200.00	4.00	2,400.00	4.00	2,400.00		2,400.00	200%	(1,200.00)
19	SALVAGE PIPE SEWER	40.00	LIN FT	50.00	2,000.00	-	-	-	-		-		2,000.00
20	SALVAGE MAILBOX	1.00	EACH	50.00	50.00	-	-	-	-		-		50.00
21	REINSTALL CASTING	3.00	EACH	400.00	1,200.00	1.00	400.00	1.00	400.00		400.00	33%	800.00
22	REINSTALL HYDRANT	1.00	EACH	2,500.00	2,500.00	1.00	2,500.00	1.00	2,500.00		2,500.00	100%	-
23	REINSTALL VALVE	1.00	EACH	1,200.00	1,200.00	1.00	1,200.00	1.00	1,200.00		1,200.00	100%	-
24	REINSTALL PIPE SEWER	40.00	LIN FT	50.00	2,000.00	-	-	-	-		-		2,000.00
25	REINSTALL MAILBOX	1.00	EACH	50.00	50.00	-	-	-	-		-		50.00
26	REINSTALL SIGN	2.00	EACH	100.00	200.00	2.00	200.00	2.00	200.00		200.00	100%	-
27	COMMON EXCAVATION (P)	3,330.00	CU YD	20.00	66,600.00	3,330.00	66,600.00	3,330.00	66,600.00		66,600.00	100%	-
28	SUBGRADE EXCAVATION (EV)	500.00	CU YD	18.00	9,000.00	110.00	1,980.00	110.00	1,980.00		1,980.00	22%	7,020.00
29	EXCAVATION SPECIAL - UM (EV)	830.00	CU YD	10.00	8,300.00	2,450.00	24,500.00	2,450.00	24,500.00		24,500.00	295%	(16,200.00)
30	GEOTEXTILE FABRIC TYPE V	4,950.00	SQ YD	1.95	9,652.50	5,275.00	10,286.25	5,275.00	10,286.25		10,286.25	107%	(633.75)
31	GEOGRID	980.00	SQ YD	5.00	4,900.00	998.50	4,992.50	998.50	4,992.50		4,992.50	102%	(92.50)
32	TEMPORARY BUSINESS ACCESS ROAD	230.00	SQ YD	14.00	3,220.00	320.00	4,480.00	320.00	4,480.00		4,480.00	139%	(1,260.00)
33	AGGREGATE SURFACING (CV), CLASS 5 (DRIVEWAY)	31.00	CU YD	35.00	1,085.00	39.90	1,396.50	39.90	1,396.50		1,396.50	129%	(311.50)
34	AGGREGATE BASE, CLASS 5 (CV)	1,720.00	CU YD	30.00	51,600.00	1,900.00	57,000.00	1,900.00	57,000.00		57,000.00	110%	(5,400.00)
35	SELECT GRANULAR BORROW (CV)	1,930.00	CU YD	15.00	28,950.00	1,392.00	20,880.00	1,392.00	20,880.00		20,880.00	72%	8,070.00
36	BITUMINOUS PATCH (DRIVEWAY)	130.00	SQ YD	70.00	9,100.00	172.00	12,040.00	172.00	12,040.00		12,040.00	132%	(2,940.00)
37	BITUMINOUS STREET PATCH	680.00	SQ YD	85.00	57,800.00	1,158.30	98,455.50	1,158.30	98,455.50		98,455.50	170%	(40,655.50)
38	TYPE SP 9.5 WEARING COURSE MIXTURE (3,B)	500.00	TON	105.00	52,500.00	462.00	48,510.00	462.00	48,510.00		48,510.00	92%	3,990.00
39	TYPE SP 12.5 NON WEARING COURSE MIXTURE (3,B)	500.00	TON	104.00	52,000.00	533.50	55,484.00	533.50	55,484.00		55,484.00	107%	(3,484.00)
40	DECOMMISSION LIFT STATION	1.00	LUMP SUM	10,500.00	10,500.00	1.00	10,500.00	1.00	10,500.00		10,500.00	100%	-

Progress Estimate - Unit Price Work

Contractor's Application for Payment

Owner:	City of Willmar	**Owner's Project No.:**	**2210**
Engineer:	Bolton & Menk, Inc.	**Engineer's Project No.:**	**0W1.123965**
Contractor:	Tom's Backhoe Service, Inc.	**Agency's Project No.:**	
Project:	TH 12 Lift Station Elimination Project		
Contract:	TH 12 Lift Station Elimination Project		

Application No.: 10 (FINAL) **Application Period:** **From** 09/30/23 **to** 07/15/24 **Application Date:** **07/15/24**

A	B	C	D	E	F	F1	F2	G	H	I	J	K	L
		Contract Information				Previous Estimate		Work Completed					
Bid Item No.	Description	Item Quantity	Units	Unit Price ($)	Value of Bid Item (C X E) ($)	Quantity Previous Estimate	Value Previous Estimate	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) ($)	Materials Currently Stored (not in G) ($)	Work Completed and Materials Stored to Date (H + I) ($)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) ($)
41	CONSTRUCT SANITARY MANHOLE, DES 4007C	427.50	LIN FT	340.00	145,350.00	427.50	145,350.00	427.50	145,350.00		145,350.00	100%	-
42	FURNISH & INSTALL CHIMNEY SEAL	17.00	EACH	600.00	10,200.00	16.00	9,600.00	16.00	9,600.00		9,600.00	94%	600.00
43	CONSTRUCT 8" OUTSIDE DROP	13.00	LIN FT	508.00	6,604.00	13.00	6,604.00	13.00	6,604.00		6,604.00	100%	-
44	CONSTRUCT 12" OUTSIDE DROP	37.50	LIN FT	667.00	25,012.50	37.50	25,012.50	37.50	25,012.50		25,012.50	100%	-
45	8" DIP SANITARY SEWER PIPE	20.00	LIN FT	150.00	3,000.00	20.00	3,000.00	20.00	3,000.00		3,000.00	100%	-
46	12" DIP SANITARY SEWER PIPE	60.00	LIN FT	200.00	12,000.00	60.00	12,000.00	60.00	12,000.00		12,000.00	100%	-
47	8" PVC SANITARY SEWER PIPE, SDR 26	5.00	LIN FT	200.00	1,000.00	-	-	-	-		-		1,000.00
48	12" PVC SANITARY SEWER PIPE, SDR 26	132.00	LIN FT	175.00	23,100.00	117.00	20,475.00	117.00	20,475.00		20,475.00	89%	2,625.00
49	18" PVC SANITARY SEWER PIPE, SDR 26	3,304.00	LIN FT	250.00	826,000.00	3,308.00	827,000.00	3,308.00	827,000.00	-	827,000.00	100%	(1,000.00)
50	30" STEEL CASING - TRENCHLESS	380.00	LIN FT	975.00	370,500.00	385.00	375,375.00	385.00	375,375.00		375,375.00	101%	(4,875.00)
51	6" PVC SANITARY SEWER SERVICE PIPE, SDR 26	396.00	LIN FT	65.00	25,740.00	414.00	26,910.00	414.00	26,910.00		26,910.00	105%	(1,170.00)
52	18" x 6" PVC WYE, SDR 26	8.00	EACH	2,000.00	16,000.00	8.00	16,000.00	8.00	16,000.00		16,000.00	100%	-
53	CONNECT TO EXISTING SANITARY MAIN	5.00	EACH	1,200.00	6,000.00	5.00	6,000.00	5.00	6,000.00		6,000.00	100%	-
54	CONNECT TO EXISTING SANITARY MANHOLE	2.00	EACH	1,800.00	3,600.00	2.00	3,600.00	2.00	3,600.00		3,600.00	100%	-
55	6" PVC WATERMAIN, C900	32.00	LIN FT	100.00	3,200.00	17.20	1,720.00	17.20	1,720.00		1,720.00	54%	1,480.00
56	8" PVC WATERMAIN, C900	928.00	LIN FT	80.00	74,240.00	926.00	74,080.00	926.00	74,080.00		74,080.00	100%	160.00
57	12" PVC WATERMAIN, C900	198.00	LIN FT	120.00	23,760.00	176.00	21,120.00	176.00	21,120.00		21,120.00	89%	2,640.00
58	6" GATE VALVE AND BOX	1.00	EACH	3,000.00	3,000.00	1.00	3,000.00	1.00	3,000.00		3,000.00	100%	-
59	8" GATE VALVE AND BOX	2.00	EACH	3,500.00	7,000.00	2.00	7,000.00	2.00	7,000.00		7,000.00	100%	-
60	12" GATE VALVE AND BOX	2.00	EACH	5,500.00	11,000.00	2.00	11,000.00	2.00	11,000.00		11,000.00	100%	-
61	FITTINGS	1,641.00	POUND	16.00	26,256.00	815.00	13,040.00	815.00	13,040.00		13,040.00	50%	13,216.00
62	HYDRANT (8.0' BURY)	1.00	EACH	6,000.00	6,000.00	1.00	6,000.00	1.00	6,000.00		6,000.00	100%	-
63	1.5" PE SERVICE PIPE	100.00	LIN FT	60.00	6,000.00	55.00	3,300.00	55.00	3,300.00		3,300.00	55%	2,700.00
64	1.5" CORPORATION STOP & SADDLE	2.00	EACH	800.00	1,600.00	1.00	800.00	1.00	800.00		800.00	50%	800.00
65	1.5" CURB STOP & BOX	2.00	EACH	950.00	1,900.00	1.00	950.00	1.00	950.00		950.00	50%	950.00
66	TEMPORARY WATER SERVICE	1.00	LUMP SUM	5,000.00	5,000.00	1.00	5,000.00	1.00	5,000.00		5,000.00	100%	-
67	CONNECT TO EXISTING WATERMAIN	8.00	EACH	1,200.00	9,600.00	6.00	7,200.00	6.00	7,200.00		7,200.00	75%	2,400.00
68	4" POLYSTYRENE INSULATION	20.00	SQ YD	50.00	1,000.00	7.50	375.00	7.50	375.00		375.00	38%	625.00
69	CONSTRUCT DRAINAGE STRUCTURE, DES H	7.00	LIN FT	1,700.00	11,900.00	7.00	11,900.00	7.00	11,900.00		11,900.00	100%	-
70	CONSTRUCT DRAINAGE STRUCTURE, DES 48-4020	5.80	LIN FT	3,400.00	19,720.00	5.80	19,720.00	5.80	19,720.00		19,720.00	100%	-
71	5" PERF PE PIPE	1,787.00	LIN FT	13.00	23,231.00	1,802.00	23,426.00	1,802.00	23,426.00		23,426.00	101%	(195.00)
72	DRAINTILE CLEAN OUT (IN LINE)	6.00	EACH	275.00	1,650.00	4.00	1,100.00	4.00	1,100.00		1,100.00	67%	550.00
73	8" CPP PIPE SEWER (DUAL WALL)	5.00	LIN FT	100.00	500.00	2.00	200.00	2.00	200.00		200.00	40%	300.00
74	10" CPP PIPE SEWER (DUAL WALL)	5.00	LIN FT	125.00	625.00	2.00	250.00	2.00	250.00		250.00	40%	375.00
75	12" RC PIPE SEWER, CLASS V	48.00	LIN FT	75.00	3,600.00	42.00	3,150.00	42.00	3,150.00		3,150.00	88%	450.00
76	24" RC PIPE SEWER, CLASS III	57.00	LIN FT	120.00	6,840.00	67.00	8,040.00	67.00	8,040.00		8,040.00	118%	(1,200.00)
77	24" RC PIPE APRON & TRASH GUARD	1.00	EACH	3,500.00	3,500.00	1.00	3,500.00	1.00	3,500.00		3,500.00	100%	-
78	CONNECT TO EXISTING STORM PIPE	6.00	EACH	2,500.00	15,000.00	3.00	7,500.00	3.00	7,500.00		7,500.00	50%	7,500.00
79	CONNECT DRAINTILE TO EXISTING STORM STRUCTURE	1.00	EACH	500.00	500.00	1.00	500.00	1.00	500.00		500.00	100%	-
80	CONCRETE CURB & GUTTER DESIGN B624	1,810.00	LIN FT	18.00	32,580.00	1,906.00	34,308.00	1,906.00	34,308.00		34,308.00	105%	(1,728.00)

Progress Estimate - Unit Price Work | **Contractor's Application for Payment**

Owner:	City of Willmar	**Owner's Project No.:**	2210
Engineer:	Bolton & Menk, Inc.	**Engineer's Project No.:**	0W1.123965
Contractor:	Tom's Backhoe Service, Inc.	**Agency's Project No.:**	
Project:	TH 12 Lift Station Elimination Project		
Contract:	TH 12 Lift Station Elimination Project		

Application No.: 10 (FINAL) **Application Period:** From 09/30/23 to 07/15/24 **Application Date:** 07/15/24

A	B	C	D	E	F	F1	F2	G	H	I	J	K	L
		Contract Information				Previous Estimate		Work Completed					
Bid Item No.	Description	Item Quantity	Units	Unit Price ($)	Value of Bid Item (C X E) ($)	Quantity Previous Estimate	Value Previous Estimate	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) ($)	Materials Currently Stored (not in G) ($)	Work Completed and Materials Stored to Date (H + I) ($)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) ($)
81	CONCRETE CURB & GUTTER DESIGN B624 - 4TH AVE	164.00	LIN FT	18.00	2,952.00	182.00	3,276.00	182.00	3,276.00		3,276.00	111%	(324.00)
82	8" CONCRETE VALLEY GUTTER	120.00	SQ YD	85.00	10,200.00	106.00	9,010.00	106.00	9,010.00		9,010.00	88%	1,190.00
83	8" REINFORCED CONCRETE DRIVEWAY PAVEMENT	230.00	SQ YD	75.00	17,250.00	290.00	21,750.00	290.00	21,750.00		21,750.00	126%	(4,500.00)
84	CONCRETE STREET PAVEMENT PATCH	430.00	SQ YD	75.00	32,250.00	-	-	-	-		-		32,250.00
85	ADJUST CASTING	10.00	EACH	450.00	4,500.00	-	-	-	-		-		4,500.00
86	ADJUST VALVE BOX	8.00	EACH	475.00	3,800.00	3.00	1,425.00	3.00	1,425.00		1,425.00	38%	2,375.00
87	CASTING ASSEMBLY (SANITARY)	17.00	EACH	1,100.00	18,700.00	17.00	18,700.00	17.00	18,700.00		18,700.00	100%	-
88	CASTING ASSEMBLY (STORM CATCH BASIN)	3.00	EACH	1,300.00	3,900.00	3.00	3,900.00	3.00	3,900.00		3,900.00	100%	-
89	STORM DRAIN INLET PROTECTION	20.00	EACH	125.00	2,500.00	20.00	2,500.00	20.00	2,500.00		2,500.00	100%	-
90	SILT FENCE, TYPE MS	280.00	LIN FT	5.20	1,456.00	126.00	655.20	126.00	655.20		655.20	45%	800.80
91	BIOLOG	200.00	LIN FT	3.25	650.00	500.00	1,625.00	500.00	1,625.00		1,625.00	250%	(975.00)
92	STABILIZED CONSTRUCTION EXIT	3.00	EACH	1,000.00	3,000.00	-	-	-	-		-		3,000.00
93	STRIP, SALVAGE, RESPREAD EXISTING TOPSOIL	1.00	LUMP SUM	6,000.00	6,000.00	1.00	6,000.00	1.00	6,000.00		6,000.00	100%	-
94	FURNISH AND INSTALL TOPSOIL BORROW (LV)	440.00	CU YD	26.10	11,484.00	-	-	-	-		-		11,484.00
95	ROLLED EROSION CONTROL BLANKET, CATEGORY 25	200.00	SQ YD	6.00	1,200.00	-	-	-	-		-		1,200.00
96	TEMPORARY MULCH, HYDROMULCH	13,030.00	SQ YD	0.70	9,121.00	28,072.00	19,650.40	28,072.00	19,650.40		19,650.40	215%	(10,529.40)
97	TURF ESTABLISHMENT - HIGH MAINTENANCE	2,600.00	SQ YD	1.75	4,550.00	3,198.00	5,596.50	3,198.00	5,596.50		5,596.50	123%	(1,046.50)
98	TURF ESTABLISHMENT - GENERAL ROADSIDE	24,750.00	SQ YD	1.75	43,312.50	30,892.00	54,061.00	30,892.00	54,061.00		54,061.00	125%	(10,748.50)
99	TURF ESTABLISHMENT - DITCH	1,320.00	SQ YD	2.00	2,640.00	1,250.00	2,500.00	1,250.00	2,500.00		2,500.00	95%	140.00
				Original Contract Totals	**$ 2,664,319.00**		**$ 2,648,101.85**		**$ 2,648,101.85**	**$ -**	**$ 2,648,101.85**	**99%**	**$ 16,217.15**
					Change Orders								
CO-01	MNDOT STORM SEWER MODIFICATION	1.00	LUMP SUM	1,000.00	1,000.00	1.00	1,000.00	1.00	1,000.00		1,000.00	100%	-
CO-02-1	ROCK ENCOUNTERED DURING JACK AND BORE	1.00	LUMP SUM	118,070.30	118,070.30	1.00	118,070.30	1.00	118,070.30		118,070.30	100%	-
CO-02-2	STEEL CAISON AROUND EXISTING MANHOLE	1.00	LUMP SUM	10,100.00	10,100.00	1.00	10,100.00	1.00	10,100.00		10,100.00	100%	-
CO-02-3	TRAFFIC CONTROL REVISION	1.00	LUMP SUM	2,018.01	2,018.01	1.00	2,018.01	1.00	2,018.01		2,018.01	100%	-
CO-03	QUANTITY RECONCILIATION	1.00	LUMP SUM	(16,217.15)	(16,217.15)		-		-		-		(16,217.15)
				Change Order Totals	**$ 114,971.16**		**$ 131,188.31**		**$ 131,188.31**	**$ -**	**$ 131,188.31**	**114%**	**$ (16,217.15)**
					Original Contract and Change Orders								
				Project Totals	**$ 2,779,290.16**		**$ 2,779,290.16**		**$ 2,779,290.16**	**$ -**	**$ 2,779,290.16**	**100%**	**$ -**

CHANGE ORDER NO.: 03

Owner:	City of Willmar	Owner's Project No.:	2210
Engineer:	Bolton & Menk, Inc.	Engineer's Project No.:	0W1.123965
Contractor:	Tom's Backhoe Service, Inc.	Contractor's Project No.:	
Project:	TH 12 Lift Station Elimination		
Contract Name:	TH 12 Lift Station Elimination		
Date Issued:	07/15/2024	Effective Date of Change Order:	07/15/2024

The Contract is modified as follows upon execution of this Change Order:

Description:

1. Reconcile final completed quantities to the final Contract Price. (Amount: -$16,217.15)

Attachments:

Change in Contract Price	Change in Contract Times
Original Contract Price: $ 2,664,319.00	Original Contract Times: Substantial Completion: 08/31/2022 Ready for final payment: 11/15/2022
Increase from previously approved Change Orders $ 131,188.31	**Increase** from previously approved Change Orders. Substantial Completion: 410 Days Ready for final payment: 412 Days
Contract Price prior to this Change Order: $ 2,795,507.31	Contract Times prior to this Change Order: Substantial Completion: 10/15/2023 Ready for final payment: 01/01/2024
Decrease this Change Order: $ 16,217.15	**Increase** this Change Order: Substantial Completion: 0 Days Ready for final payment: 212 Days
Contract Price incorporating this Change Order: $ 2,779,290.16	Contract Times with all approved Change Orders: Substantial Completion: 10/15/2023 Ready for final payment: 07/31/2024

Recommended by Engineer (if required)

By: [signature]

Title: Principal Engineer

Date: 07/15/2024

Accepted by Contractor

Kathy Thompson

CFO

7/16/24

Authorized by Owner

By: [signature]

Title: Public Works Director

Date: 7-26-2024

WILLMAR MINNESOTA INC. 1901

City Council Action Request

Council Meeting Date:	August 5, 2024	Agenda Item Number:	6.J.
Agenda Section:	Consent Items	Originating Department:	Planning and Development
Resolution:	No	Prepared By:	Christopher Corbett, Planning and Development Director
Ordinance:	No	Presented By:	Christopher Corbett, Planning and Development Director
Item:	Removal of Inactive Planning Commissioner		

RECOMMENDED ACTION:
Recommendation to remove Planning Commissioner Kelsey Vosika

OVERVIEW:
Planning and Development staff have attempted to contact Planning Commissioner, Kelsey Vosika, with no response. Commissioner Vosika has missed more than 3 consecutive unexcused absences.

Pursuant to City Charter Section 4.01, "If any member of a board or commission fails to attend three (3) consecutive regular meetings of the board or commission, without being excused by the board or commission, the City Council may remove said member by an affirmative vote of five (5) members of the Council. Vacancies shall be filled by the appointing power."

BUDGETARY/FISCAL ISSUES:
0

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
None

INC· 1901

WILLMAR

MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.K.
Agenda Section:	Consent Items	**Originating Department:**	Administration
Resolution:	No	**Prepared By:**	Leslie Valiant, City Administrator
Ordinance:	No	**Presented By:**	Leslie Valiant, City Administrator
Item:	Zoning Appeals Board Applicant - Steve Ahmann		

RECOMMENDED ACTION:
Motion to approve Steve Ahmann to the Zoning Appeals Board

OVERVIEW:
Mayor Reese approves the appointment of Steve Ahmann to the Zoning Appeals Board

BUDGETARY/FISCAL ISSUES:

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
None

INC· 1901
WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	6.L.
Agenda Section:	Consent Items	**Originating Department:**	Administration
Resolution:	No	**Prepared By:**	Leslie Valiant, City Administrator
Ordinance:	No	**Presented By:**	Leslie Valiant, City Administrator
Item:	Zoning Appeals Board Applicant - Jeanne Kling		

RECOMMENDED ACTION:
Appprove the appointment of Jeanne Kling to the Zoning Appeals Board

OVERVIEW:
Mayor Reese approves the appointment of Jeanne Kling to the Zoning Appeals Board

BUDGETARY/FISCAL ISSUES:

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
None

WILLMAR MINNESOTA
INC. 1901

City Council Action Request

Council Meeting Date:	August 5, 2024	Agenda Item Number:	6.M.
Agenda Section:	Consent Items	Originating Department:	Finance
Resolution:	No	Prepared By:	Tom Odens, Finance Director
Ordinance:	No	Presented By:	Vernae Larsen, City Clerk
Item:	Accounts Payable Report, 7/24/24 - 7/31/24		

RECOMMENDED ACTION:
Review and Approve Accounts Payable Listing

OVERVIEW:
Reduction of Departmental Budgets by amounts approved.

BUDGETARY/FISCAL ISSUES:

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
1. Vendor Pymt History Report 07-24-2024-07-31-2024
2. Vendor Pymt History 07.24.24-07.31.24 Excel
3. Vendor Pymt History Report 07-31-24 EFT CK541-545
4. Vendor Pymt History EFTCK 541-545 Excel

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
103111 ACCESS LIFTS										
M4103SA-11		07/24/2024	07/31-AV	72087	520.00	520.00	08/08/2024	INV	PD	Mainte
CHECK DATE: 07/31/2024										
103696 ACE ROLLOFFS & DISPOSAL										
234/07-24		07/24/2024	07/31-AV	72088	980.03	980.03	08/08/2024	INV	PD	Garbag
CHECK DATE: 07/31/2024										
235/07-24		07/24/2024	07/31-AV	72088	613.28	613.28	08/08/2024	INV	PD	Garbag
CHECK DATE: 07/31/2024										
					1,593.31					
103800 AFLAC										
866638		07/31/2024	07/31-AV	72089	819.82	819.82	08/15/2024	INV	PD	premiu
CHECK DATE: 07/31/2024										
103136 ALPHA TRAINING & TACTICS LLC										
2024-0251		07/31/2024	07/31-AV	72090	979.02	979.02	08/15/2024	INV	PD	Ballis
CHECK DATE: 07/31/2024										
103557 AMAZON CAPITAL SERVICES										
11YV-F1D1-3LTQ		07/31/2024	07/31-AV	72091	30.76	30.76	08/15/2024	INV	PD	Headph
CHECK DATE: 07/31/2024										
17H9-D4TJ-44PH		07/31/2024	07/31-AV	72091	39.11	39.11	08/15/2024	INV	PD	Wirele
CHECK DATE: 07/31/2024										
17YX-WTDR-V6YC		07/23/2024	07/31-AV	72091	340.55	340.55	08/07/2024	INV	PD	Mesh b
CHECK DATE: 07/31/2024										
19CD-Q6L3-YJT9		07/23/2024	07/31-AV	72091	62.68	62.68	08/07/2024	INV	PD	Tie Dy
CHECK DATE: 07/31/2024										
19GN-FGM1-3FG1		07/30/2024	07/31-AV	72091	169.85	169.85	08/14/2024	INV	PD	Brothe
CHECK DATE: 07/31/2024										
1LJQ-X94Q-LMQQ		07/23/2024	07/31-AV	72091	2,304.12	2,304.12	08/07/2024	INV	PD	Pitchi
CHECK DATE: 07/31/2024										
1TYF-XKYL-HC7N		07/31/2024	07/31-AV	72091	99.27	99.27	08/15/2024	INV	PD	Wristb
CHECK DATE: 07/31/2024										
1VPR-3R93-49FQ		07/31/2024	07/31-AV	72091	-80.81	-80.81	08/15/2024	CRM	PD	REFUND
CHECK DATE: 07/31/2024										

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
1VPR-3R93-6MX3 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72091	25.59	25.59	08/09/2024	INV	PD	Air pu
					2,991.12					
101828 ANDERSON/MICHAEL										
073024 CHECK DATE: 07/31/2024		07/31/2024	07/31-AV	72092	231.00	231.00	08/15/2024	INV	PD	Meal R
103008 ASPEN MILLS										
336473 CHECK DATE: 07/31/2024		07/30/2024	07/31-AV	72093	244.89	244.89	08/14/2024	INV	PD	Unifor
336474 CHECK DATE: 07/31/2024		07/30/2024	07/31-AV	72093	265.87	265.87	08/14/2024	INV	PD	Unifor
					510.76					
100538 ASSOCIATIONS NORTH										
300003221 CHECK DATE: 07/31/2024		06/18/2024	07/31-AV	72094	674.00	674.00	08/07/2024	INV	PD	Associ
100075 AT&T MOBILITY										
287296610156X0803202 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72095	2,302.34	2,302.34	08/20/2024	INV	PD	FirstN
100131 AVENU INSIGHTS & ANALYTICS										
INVB-055146 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72096	3,012.64	3,012.64	08/24/2024	INV	PD	AS400
104080 B&F Fastener Supply										
80004012-00 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72097	14.27	14.27	08/09/2024	INV	PD	green/
80004306-00 CHECK DATE: 07/31/2024		07/23/2024	07/31-AV	72097	249.99	249.99	08/07/2024	INV	PD	1/2 in
80004595-00 CHECK DATE: 07/31/2024		07/26/2024	07/31-AV	72097	66.74	66.74	08/10/2024	INV	PD	Zip Ti
80004611-00 CHECK DATE: 07/31/2024		07/29/2024	07/31-AV	72097	21.14	21.14	08/13/2024	INV	PD	zip ti

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
					352.14					
100103 BERNICK'S PEPSI-COLA CO										
I58815		07/23/2024	07/31-AV	72098	170.10	170.10	08/07/2024	INV	PD	Coffee
CHECK DATE: 07/31/2024										
103733 BOX/KYLE										
092624		07/25/2024	07/31-AV	72099	198.22	198.22	08/09/2024	INV	PD	LMC im
CHECK DATE: 07/31/2024										
104021 Braakholter LLC										
072624		07/24/2024	07/31-AV	72100	1,344.21	1,344.21	08/08/2024	INV	PD	Conces
CHECK DATE: 07/31/2024										
103647 CAPITAL ONE										
062524		07/10/2024	07/31-AV	72101	20.06	20.06	08/13/2024	INV	PD	CERT m
CHECK DATE: 07/31/2024										
070124		07/01/2024	07/31-AV	72101	132.56	132.56	08/13/2024	INV	PD	Breakr
CHECK DATE: 07/31/2024										
070924		07/10/2024	07/31-AV	72101	15.21	15.21	08/13/2024	INV	PD	Coffee
CHECK DATE: 07/31/2024										
071024		07/10/2024	07/31-AV	72101	77.88	77.88	08/13/2024	INV	PD	Coffee
CHECK DATE: 07/31/2024										
071124		07/10/2024	07/31-AV	72101	8.94	8.94	08/13/2024	INV	PD	Cookie
CHECK DATE: 07/31/2024										
071824		07/18/2024	07/31-AV	72101	16.92	16.92	08/13/2024	INV	PD	Traini
CHECK DATE: 07/31/2024										
					271.57					
102157 CLARKE MOSQUITO CONTROL										
005109962		07/29/2024	07/31-AV	72102	12,210.00	12,210.00	08/13/2024	INV	PD	Mosqui
CHECK DATE: 07/31/2024										
102984 CODE 4 SERVICES INC										
9778		07/30/2024	07/31-AV	72103	5,871.77	5,871.77	08/14/2024	INV	PD	Squad
CHECK DATE: 07/31/2024										
104070 Column Software PBC										

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
B15E1683-0033 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72104	110.94	110.94	08/08/2024	INV	PD	Ordina
B15E1683-0034 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72104	68.99	68.99	08/08/2024	INV	PD	Ordina
B15E1683-0035 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72104	60.60	60.60	08/09/2024	INV	PD	PDS-CU
B15E1683-0036 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72104	62.15	62.15	08/09/2024	INV	PD	PD-CUP
B15E1683-0037 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72104	60.60	60.60	08/09/2024	INV	PD	PDS-CU
B15E1683-0038 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72104	60.60	60.60	08/09/2024	INV	PD	PDS-CU
B15E1683-0039 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72104	48.96	48.96	08/09/2024	INV	PD	PDS-MA
					472.84					
103677 COORDINATED BUSINESS SYSTEMS										
INV389606 CHECK DATE: 07/31/2024		06/17/2024	07/31-AV	72105	204.91	204.91	08/07/2024	INV	PD	Manage
INV392313 CHECK DATE: 07/31/2024		06/28/2024	07/31-AV	72105	2,611.91	2,611.91	08/07/2024	INV	PD	Laptop
INV395831 CHECK DATE: 07/31/2024		07/16/2024	07/31-AV	72105	151.28	151.28	08/07/2024	INV	PD	Manage
					2,968.10					
103929 COSTAR REALTY INFORMATION										
566420 CHECK DATE: 07/31/2024		07/02/2024	07/31-AV	72106	3,315.00	3,315.00	08/07/2024	INV	PD	STR De
100186 CROW CHEMICAL & LIGHTING										
127621 CHECK DATE: 07/31/2024		07/01/2024	07/31-AV	72107	121.25	121.25	07/16/2024	INV	PD	Garbag
127717 CHECK DATE: 07/31/2024		07/15/2024	07/31-AV	72107	173.32	173.32	07/30/2024	INV	PD	Toilet
127805 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72107	240.45	240.45	08/08/2024	INV	PD	Toilet

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
					535.02					
104151 David Folz										
0008663		07/24/2024	07/31-AV	72108	100.00	100.00	08/08/2024	INV	PD	shelte
CHECK DATE: 07/31/2024										
100222 DUININCK INC										
560792		07/16/2024	07/31-AV	72109	4,182.87	4,182.87	07/31/2024	INV	PD	Gravel
CHECK DATE: 07/31/2024										
560946		07/22/2024	07/31-AV	72109	2,063.88	2,063.88	08/06/2024	INV	PD	Asphal
CHECK DATE: 07/31/2024										
					6,246.75					
100231 ED'S SERVICE CENTER & SALES										
147843		07/10/2024	07/31-AV	72110	250.00	250.00	07/25/2024	INV	PD	Tow fo
CHECK DATE: 07/31/2024										
103906 ELECTRICAL PRODUCTION SERVICES										
22391		07/26/2024	07/31-AV	72111	1,100.00	1,100.00	07/26/2024	INV	PD	Door a
CHECK DATE: 07/31/2024										
100775 FIRST CHOICE FOOD & BEVERAGE										
2107:035410		07/23/2024	07/31-AV	72112	443.52	443.52	08/07/2024	INV	PD	Chips
CHECK DATE: 07/31/2024										
102484 FISCHER/BETH										
072924		07/29/2024	07/31-AV	72113	192.85	192.85	08/07/2024	INV	PD	Cell p
CHECK DATE: 07/31/2024										
102973 FLEETPRIDE										
118555690		07/24/2024	07/31-AV	72114	24.94	24.94	08/08/2024	INV	PD	Filter
CHECK DATE: 07/31/2024										
118590139		07/25/2024	07/31-AV	72114	20.19	20.19	08/09/2024	INV	PD	Filter
CHECK DATE: 07/31/2024										
					45.13					
100293 GENERAL MAILING SERVICES										
70226		06/10/2024	07/31-AV	72115	111.29	111.29	08/07/2024	INV	PD	Postag

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
CHECK DATE: 07/31/2024										
70446		06/30/2024	07/31-AV	72115	.83	.83	08/07/2024	INV	PD	Postag
CHECK DATE: 07/31/2024										
70448		06/30/2024	07/31-AV	72115	706.22	706.22	08/07/2024	INV	PD	June P
CHECK DATE: 07/31/2024										
70461		07/09/2024	07/31-AV	72115	194.54	194.54	08/07/2024	INV	PD	Postag
CHECK DATE: 07/31/2024										
					1,012.88					
101887 GRAND RENTAL STATION										
1-581496		07/24/2024	07/31-AV	72116	211.22	211.22	08/08/2024	INV	PD	Rental
CHECK DATE: 07/31/2024										
101504 GREENSPRING MEDIA GROUP										
2024ci-6421		06/28/2024	07/31-AV	72117	1,000.00	1,000.00	08/07/2024	INV	PD	MNMO.c
CHECK DATE: 07/31/2024										
100321 HANSEN ADVERTISING SPECIALTIES										
50744		07/24/2024	07/31-AV	72118	415.86	415.86	08/08/2024	INV	PD	VIENNA
CHECK DATE: 07/31/2024										
50818		07/24/2024	07/31-AV	72118	560.28	560.28	08/08/2024	INV	PD	LANYAR
CHECK DATE: 07/31/2024										
					976.14					
102609 HAUG-KUBOTA LLC										
24949		07/24/2024	07/31-AV	72119	210.83	210.83	08/08/2024	INV	PD	Tie Ro
CHECK DATE: 07/31/2024										
24990		07/29/2024	07/31-AV	72119	95.79	95.79	08/13/2024	INV	PD	Belt
CHECK DATE: 07/31/2024										
					306.62					
900111 HAWK CREEK ANIMAL SHLTR										
54047		07/24/2024	07/31-AV	72120	11,602.50	11,602.50	08/08/2024	INV	PD	July-S
CHECK DATE: 07/31/2024										
100327 HAYNES WINDOW CLEANING SERVICE										
37413		07/23/2024	07/31-AV	72121	50.00	50.00	08/22/2024	INV	PD	WRAC w
CHECK DATE: 07/31/2024										

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
100333 HILLYARD\HUTCHINSON										
700599091		07/25/2024	07/31-AV	72122	442.24	442.24	08/09/2024	INV	PD	Repair
CHECK DATE: 07/31/2024										
800696364		07/24/2024	07/31-AV	72122	-71.09	-71.09	08/08/2024	CRM	PD	Soap
CHECK DATE: 07/31/2024										
					371.15					
103936 HOFFMAN CONSTRUCTION CO. LLC										
INV273		07/26/2024	07/31-AV	72123	1,510.00	1,510.00	08/10/2024	INV	PD	Becker
CHECK DATE: 07/31/2024										
INV275		07/26/2024	07/31-AV	72123	3,340.00	3,340.00	08/10/2024	INV	PD	Monong
CHECK DATE: 07/31/2024										
INV276		07/26/2024	07/31-AV	72123	1,965.00	1,965.00	08/10/2024	INV	PD	604 25
CHECK DATE: 07/31/2024										
INV277		07/26/2024	07/31-AV	72123	3,800.00	3,800.00	08/10/2024	INV	PD	Becker
CHECK DATE: 07/31/2024										
					10,615.00					
102511 HOLME/MICHAEL										
073024		07/30/2024	07/31-AV	72124	179.00	179.00	08/14/2024	INV	PD	Meal R
CHECK DATE: 07/31/2024										
103023 INNOVATIVE OFFICE SOLUTIONS										
CIN123577		07/24/2024	07/31-AV	72125	610.00	610.00	08/08/2024	INV	PD	Office
CHECK DATE: 07/31/2024										
IN4572464		06/26/2024	07/31-AV	72125	271.14	271.14	08/07/2024	INV	PD	Name B
CHECK DATE: 07/31/2024										
					881.14					
103926 IRON VALLEY EQUIPMENT & MFG										
2358		07/24/2024	07/31-AV	72126	1,866.88	1,866.88	08/08/2024	INV	PD	Tiger
CHECK DATE: 07/31/2024										
103861 JOE RILEY CONSTRUCTION										
Appl #1 2404-A		07/31/2024	07/31-AV	72127	65,483.46	65,483.46	08/15/2024	INV	PD	Projec
CHECK DATE: 07/31/2024										

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
Appl #2		07/29/2024	07/31-AV	72127	441,833.96	441,833.96	08/13/2024	INV	PD	Projec
CHECK DATE: 07/31/2024										
					507,317.42					
104152 Judy Hoffer										
0008556		07/24/2024	07/31-AV	72128	100.00	100.00	08/08/2024	INV	PD	shelte
CHECK DATE: 07/31/2024										
101642 KANDIYOHI CO HISTORICAL SOC										
07292024		07/29/2024	07/31-AV	72129	100.00	100.00	08/07/2024	INV	PD	Willma
CHECK DATE: 07/31/2024										
104101 Levanen Underground LLC										
Appl #3		07/24/2024	07/31-AV	72130	126,096.78	126,096.78	08/08/2024	INV	PD	Projec
CHECK DATE: 07/31/2024										
103376 LLOYD SECURITY INC										
183660		07/15/2024	07/31-AV	72131	134.97	134.97	07/30/2024	INV	PD	Fire m
CHECK DATE: 07/31/2024										
103226 LOCAL GOV'T INFORMATION SYS.										
40000		06/30/2024	07/31-AV	72132	362.50	362.50	08/14/2024	INV	PD	LOGIS
CHECK DATE: 07/31/2024										
102162 LOCATORS & SUPPLIES INC										
0315542-IN		07/18/2024	07/31-AV	72133	2,243.08	2,243.08	08/02/2024	INV	PD	Traffi
CHECK DATE: 07/31/2024										
102593 LOFFLER COMPANIES										
4739726		07/01/2024	07/31-AV	72134	34.33	34.33	08/07/2024	INV	PD	Teleph
CHECK DATE: 07/31/2024										
100427 MACQUEEN EQUIPMENT INC										
P58995		07/31/2024	07/31-AV	72135	135.15	135.15	08/15/2024	INV	PD	Sweepe
CHECK DATE: 07/31/2024										
100437 MARCO TECHNOLOGIES LLC										

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
INV12722485 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72136	52.50	52.50	08/08/2024	INV	PD	shred
101838 MARCO TECHNOLOGIES LLC										
534695465 CHECK DATE: 07/31/2024		07/27/2024	07/31-AV	72137	162.28	162.28	08/20/2024	INV	PD	500-06
534695788 CHECK DATE: 07/31/2024		07/27/2024	07/31-AV	72137	205.39	205.39	08/20/2024	INV	PD	500-06
					367.67					
100449 MENARDS										
80017 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72138	117.05	117.05	08/08/2024	INV	PD	Suppli
80742 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72138	270.35	270.35	08/08/2024	INV	PD	Bleach
80876 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72138	25.52	25.52	08/08/2024	INV	PD	Rebar
80920 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72138	7.48	7.48	08/09/2024	INV	PD	tape
80968 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72138	12.48	12.48	08/08/2024	INV	PD	Replac
80970 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72138	-5.49	-5.49	08/08/2024	CRM	PD	Return
80971 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72138	7.98	7.98	08/08/2024	INV	PD	Handle
81201 CHECK DATE: 07/31/2024		07/30/2024	07/31-AV	72138	65.68	65.68	08/14/2024	INV	PD	Batter
					501.05					
103790 MILES PARTNERSHIP,LLLP										
101177 CHECK DATE: 07/31/2024		07/15/2024	07/31-AV	72139	850.00	850.00	08/07/2024	INV	PD	MN Exp
103729 MILLS PARTS CENTER										
6209314 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72140	208.84	208.84	08/08/2024	INV	PD	Exhaus
101805 MINI BIFF LLC										

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
A-150356 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72141	117.30	117.30	08/08/2024	INV	PD	Southf
A-150357 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72141	117.30	117.30	08/08/2024	INV	PD	Rau Pa
A-150359 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72141	117.30	117.30	08/08/2024	INV	PD	Gesch
A-150361 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72141	117.30	117.30	08/08/2024	INV	PD	Minneg
A-150385 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72141	117.30	117.30	08/08/2024	INV	PD	Mini B
A-150405 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72141	117.30	117.30	08/08/2024	INV	PD	Mini B
					703.80					
100496 MN PUBLIC FACILITIES AUTHORITY										
2024-08-20 CHECK DATE: 07/31/2024		08/01/2024	07/31-AV	72142	4,068,713.33	4,068,713.33	08/16/2024	INV	PD	08/20/
103756 MR. CLEAN WILLMAR CLEANING SER										
STMT/02-24 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72143	810.00	810.00	08/08/2024	INV	PD	Shelte
100541 MUNICIPAL UTILITIES										
STMT/07-24 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72144	65,789.86	65,789.86	08/09/2024	INV	PD	Munici
101794 NELSON/CHAD										
073024 CHECK DATE: 07/31/2024		07/31/2024	07/31-AV	72145	241.00	241.00	08/15/2024	INV	PD	Meal a
100650 O'REILLY AUTOMOTIVE INC										
1528-154675 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72146	76.14	76.14	08/09/2024	INV	PD	Intake
15289-154759 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72146	191.23	191.23	08/09/2024	INV	PD	Exhaus

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
					267.37					
104150 Park & Play USA, LLC										
1272 CHECK DATE: 07/31/2024		07/23/2024	07/31-AV	72147	1,507.00	1,507.00	08/07/2024	INV	PD	Bleach
102543 PAT'S GRAPHICS										
15007 CHECK DATE: 07/31/2024		07/29/2024	07/31-AV	72148	187.92	187.92	08/28/2024	INV	PD	Decals
100608 PETERSON SHOE STORE										
230500 CHECK DATE: 07/31/2024		05/06/2024	07/31-AV	72149	208.24	208.24	05/21/2024	INV	PD	Safety
100374 PREMIUM WATERS INC										
330610197 CHECK DATE: 07/31/2024		07/31/2024	07/31-AV	72150	41.24	41.24	08/15/2024	INV	PD	Water
102582 RAILROAD MANAGEMENT CO III LLC										
509223 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72151	379.14	379.14	08/08/2024	INV	PD	Licens
509224 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72151	379.14	379.14	08/08/2024	INV	PD	Licens
509225 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72151	379.14	379.14	08/08/2024	INV	PD	Licens
					1,137.42					
100639 RAMBOW INC										
653928 CHECK DATE: 07/31/2024		07/31/2024	07/31-AV	72152	370.00	370.00	08/15/2024	INV	PD	West c
653930 CHECK DATE: 07/31/2024		07/31/2024	07/31-AV	72152	320.00	320.00	08/15/2024	INV	PD	Wrestl
656392 CHECK DATE: 07/31/2024		07/25/2024	07/31-AV	72152	136.50	136.50	08/09/2024	INV	PD	Youth
657365 CHECK DATE: 07/31/2024		07/23/2024	07/31-AV	72152	20.00	20.00	08/07/2024	INV	PD	Soccer

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
					846.50					
103109 RDO EQUIPMENT CO										
P9476911		07/15/2024	07/31-AV	72153	614.91	614.91	07/30/2024	INV	PD	Chippe
CHECK DATE: 07/31/2024										
100275 SHI CORP										
B18601776	54	07/23/2024	07/31-AV	72154	3,205.08	3,205.08	08/22/2024	INV	PD	FY24/2
CHECK DATE: 07/31/2024										
103780 SIR LINES-A-LOT LLC										
H24-0922-001		07/25/2024	07/31-AV	72155	23,039.80	23,039.80	08/09/2024	INV	PD	2024 p
CHECK DATE: 07/31/2024										
100715 STATE OF MN										
526483-2		07/24/2024	07/31-AV	72156	36.75	36.75	08/08/2024	INV	PD	City o
CHECK DATE: 07/31/2024										
100728 SURPLUS WAREHOUSE INC										
91408		07/22/2024	07/31-AV	72157	7.99	7.99	08/06/2024	INV	PD	Dust C
CHECK DATE: 07/31/2024										
100161 SYSCO WESTERN MINNESOTA										
253682778		07/31/2024	07/31-AV	72158	1,159.34	1,159.34	08/15/2024	INV	PD	Conces
CHECK DATE: 07/31/2024										
253682780		07/24/2024	07/31-AV	72158	509.49	509.49	08/08/2024	INV	PD	Conces
CHECK DATE: 07/31/2024										
253687253		07/31/2024	07/31-AV	72158	645.90	645.90	08/15/2024	INV	PD	Conces
CHECK DATE: 07/31/2024										
					2,314.73					
103757 TOM'S BACKHOE SERVICE, INC.										
10 Final		07/26/2024	07/31-AV	72159	55,585.80	55,585.80	08/10/2024	INV	PD	Projec
CHECK DATE: 07/31/2024										
Appl #2		07/26/2024	07/31-AV	72159	426,513.90	426,513.90	08/10/2024	INV	PD	ELLS 7
CHECK DATE: 07/31/2024										

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
					482,099.70					
103143 US BANK EQUIPMENT FINANCE										
534127246 CHECK DATE: 07/31/2024		07/22/2024	07/31-AV	72160	752.27	752.27	08/15/2024	INV	PD	500-06
100777 VIKING COCA-COLA BOTTLING CO										
3432100 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72161	553.25	553.25	08/08/2024	INV	PD	Conces
3437586 CHECK DATE: 07/31/2024		07/23/2024	07/31-AV	72161	351.50	351.50	08/07/2024	INV	PD	Pop an
3441503 CHECK DATE: 07/31/2024		07/24/2024	07/31-AV	72161	1,584.65	1,584.65	08/08/2024	INV	PD	Conces
					2,489.40					
100796 WEST CENTRAL COMMUNICATION										
098730S CHECK DATE: 07/31/2024		07/19/2024	07/31-AV	72162	90.35	90.35	08/03/2024	INV	PD	Antenn
100803 WEST CENTRAL PRINTING										
24606 CHECK DATE: 07/31/2024		07/30/2024	07/31-AV	72163	19.96	19.96	08/14/2024	INV	PD	Busine
101640 WESTMOR INDUSTRIES LLC										
2069949 RI CHECK DATE: 07/31/2024		07/18/2024	07/31-AV	72164	3,431.21	3,431.21	08/02/2024	INV	PD	Fuel P
102689 WILLMAR AUTO VALUE										
22529751 CHECK DATE: 07/31/2024		06/25/2024	07/31-AV	72165	149.99	149.99	08/10/2024	INV	PD	Brake
22530092 CHECK DATE: 07/31/2024		06/27/2024	07/31-AV	72165	414.00	414.00	08/10/2024	INV	PD	Hydrau
22531166 CHECK DATE: 07/31/2024		07/08/2024	07/31-AV	72165	169.99	169.99	08/10/2024	INV	PD	Starte
22531379 CHECK DATE: 07/31/2024		07/09/2024	07/31-AV	72165	258.62	258.62	08/10/2024	INV	PD	Batter
22531645 CHECK DATE: 07/31/2024		07/11/2024	07/31-AV	72165	234.99	234.99	08/10/2024	INV	PD	Brake

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
22532081		07/15/2024	07/31-AV	72165	149.99	149.99	08/10/2024	INV	PD	Brake
CHECK DATE: 07/31/2024										
22532082		07/15/2024	07/31-AV	72165	305.98	305.98	08/10/2024	INV	PD	Contro
CHECK DATE: 07/31/2024										
22532158		07/16/2024	07/31-AV	72165	-305.98	-305.98	08/10/2024	CRM	PD	Return
CHECK DATE: 07/31/2024										
22532161		07/16/2024	07/31-AV	72165	265.98	265.98	08/10/2024	INV	PD	Contro
CHECK DATE: 07/31/2024										
22532277		07/17/2024	07/31-AV	72165	418.14	418.14	08/10/2024	INV	PD	Brake
CHECK DATE: 07/31/2024										
22532450		07/18/2024	07/31-AV	72165	149.99	149.99	08/10/2024	INV	PD	Brake
CHECK DATE: 07/31/2024										
22533013		07/23/2024	07/31-AV	72165	461.11	461.11	08/07/2024	INV	PD	Batter
CHECK DATE: 07/31/2024										
22533015		07/23/2024	07/31-AV	72165	149.99	149.99	08/07/2024	INV	PD	Brake
CHECK DATE: 07/31/2024										
22533133		07/24/2024	07/31-AV	72165	265.98	265.98	08/08/2024	INV	PD	Contro
CHECK DATE: 07/31/2024										
22533275		07/25/2024	07/31-AV	72165	643.97	643.97	08/09/2024	INV	PD	A/C Co
CHECK DATE: 07/31/2024										
					3,732.74					
22530503		07/01/2024	07/31-AV	72166	6.98	6.98	08/10/2024	INV	PD	Spark
CHECK DATE: 07/31/2024										
22531378		07/09/2024	07/31-AV	72166	-50.00	-50.00	08/10/2024	CRM	PD	Core R
CHECK DATE: 07/31/2024										
22531522		07/24/2024	07/31-AV	72166	101.96	101.96	08/10/2024	INV	PD	Zambon
CHECK DATE: 07/31/2024										
22531620		07/24/2024	07/31-AV	72166	107.88	107.88	08/10/2024	INV	PD	Zambon
CHECK DATE: 07/31/2024										
22531644		07/11/2024	07/31-AV	72166	49.99	49.99	08/10/2024	INV	PD	Brake
CHECK DATE: 07/31/2024										
22531772		07/11/2024	07/31-AV	72166	29.99	29.99	08/10/2024	INV	PD	A/C Re
CHECK DATE: 07/31/2024										
22531979		07/15/2024	07/31-AV	72166	28.20	28.20	08/10/2024	INV	PD	A/C Ch
CHECK DATE: 07/31/2024										
22532016		07/15/2024	07/31-AV	72166	42.69	42.69	08/10/2024	INV	PD	Filter

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
CHECK DATE: 07/31/2024										
22532018		07/15/2024	07/31-AV	72166	65.98	65.98	08/10/2024	INV	PD	6" Rec
CHECK DATE: 07/31/2024										
22532274		07/17/2024	07/31-AV	72166	10.99	10.99	08/10/2024	INV	PD	Belt
CHECK DATE: 07/31/2024										
22532342		07/17/2024	07/31-AV	72166	136.55	136.55	08/10/2024	INV	PD	Replac
CHECK DATE: 07/31/2024										
22532449		07/18/2024	07/31-AV	72166	-148.16	-148.16	08/10/2024	CRM	PD	Core R
CHECK DATE: 07/31/2024										
22532644		07/19/2024	07/31-AV	72166	21.98	21.98	08/10/2024	INV	PD	back-u
CHECK DATE: 07/31/2024										
22533137		07/24/2024	07/31-AV	72166	44.98	44.98	08/08/2024	INV	PD	Purge
CHECK DATE: 07/31/2024										
22533181		07/24/2024	07/31-AV	72166	13.99	13.99	08/08/2024	INV	PD	DOT4 B
CHECK DATE: 07/31/2024										
					464.00					
100812 WILLMAR CHAMBER OF COMMERCE										
57486		07/03/2024	07/31-AV	72167	70.64	70.64	08/07/2024	INV	PD	Recycl
CHECK DATE: 07/31/2024										
57487		07/03/2024	07/31-AV	72167	236.08	236.08	08/07/2024	INV	PD	Manage
CHECK DATE: 07/31/2024										
57489		07/03/2024	07/31-AV	72167	13,138.79	13,138.79	08/07/2024	INV	PD	July M
CHECK DATE: 07/31/2024										
					13,445.51					
103859 ZARTICO, INC										
0001428		06/16/2024	07/31-AV	72168	12,500.00	12,500.00	08/07/2024	INV	PD	Zartic
CHECK DATE: 07/31/2024										
		177 INVOICES			5,405,996.13					

** END OF REPORT - Generated by Abby Valladarez **

VENDOR	NAME	ADDR1	INVOICE	CHECK RUN	CHECK NO	INVOICE NET	INVOICE DESCRIPTION	CHECK DATE
103111	ACCESS LIFTS	1800 CLIFF RD E - SUITE 11A	M4103SA-11	07/31-AV	72087	$ 520.00	Maintenance on Elevator	7/31/2024
103696	ACE ROLLOFFS & DISPOSAL	PO BOX 1743	234/07-24	07/31-AV	72088	$ 980.03	Garbage	7/31/2024
103696	ACE ROLLOFFS & DISPOSAL	PO BOX 1743	235/07-24	07/31-AV	72088	$ 613.28	Garbage	7/31/2024
103800	AFLAC	REMITTANCE PROC SERV	866638	07/31-AV	72089	$ 819.82	premiums withheld from July payroll	7/31/2024
103136	ALPHA TRAINING & TACTICS LLC	15247 61ST ST NE	2024-0251	07/31-AV	72090	$ 979.02	Ballistics Vest	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	19CD-Q6L3-YJT9	07/31-AV	72091	$ 62.68	Tie Dye for Rockin Robbins	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	17YX-WTDR-V6YC	07/31-AV	72091	$ 340.55	Mesh bags for ball storage and balls youth Rec	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	1LJQ-X94Q-LMQQ	07/31-AV	72091	$ 2,304.12	Pitching machines and balls for youth rec programs	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	1VPR-3R93-6MX3	07/31-AV	72091	$ 25.59	Air purifier filters- Planner office	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	19GN-FGM1-3FG1	07/31-AV	72091	$ 169.85	Brother Mobile Pocketjet Thermal Paper Rolls	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	1TYF-XKYL-HC7N	07/31-AV	72091	$ 99.27	Wristbands for DOAC and Laminating sheets	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	11YV-F1D1-3LTQ	07/31-AV	72091	$ 30.76	Headphone Extension Cables for Secretaries	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	17H9-D4TJ-44PH	07/31-AV	72091	$ 39.11	Wireless Mouse and File Folders	7/31/2024
103557	AMAZON CAPITAL SERVICES	PO BOX 035184	1VPR-3R93-49FQ	07/31-AV	72091	$ (80.81)	REFUND for Inv# 1RFL-WT3X-M9DJ minus fee	7/31/2024
101828	ANDERSON/MICHAEL	12505 10TH ST NE	073024	07/31-AV	72092	$ 231.00	Meal Reimbursement for Training	7/31/2024
103008	ASPEN MILLS	8201-C CENTRAL AVE NE	336474	07/31-AV	72093	$ 265.87	Uniform pants for CSO Clancy	7/31/2024
103008	ASPEN MILLS	8201-C CENTRAL AVE NE	336473	07/31-AV	72093	$ 244.89	Uniform pants for CSO Hiltner	7/31/2024
100538	ASSOCIATIONS NORTH	1970 OAKCREST AVE - SUITE 100	300003221	07/31-AV	72094	$ 674.00	Associations North Membership 7/1/24-6/30/25	7/31/2024
100075	AT&T MOBILITY	PO BOX 6463	287296610156X0803202	07/31-AV	72095	$ 2,302.34	FirstNet Jun/Jul	7/31/2024
100131	AVENU INSIGHTS & ANALYTICS	PO BOX 200886	INVB-055146	07/31-AV	72096	$ 3,012.64	AS400 hosting - Jul	7/31/2024
104080	B&F Fastener Supply	7100 Sunwood Dr NW	80004012-00	07/31-AV	72097	$ 14.27	green/black mesh vest for building inspector	7/31/2024
104080	B&F Fastener Supply	7100 Sunwood Dr NW	80004306-00	07/31-AV	72097	$ 249.99	1/2 in. Impact	7/31/2024
104080	B&F Fastener Supply	7100 Sunwood Dr NW	80004611-00	07/31-AV	72097	$ 21.14	zip ties	7/31/2024
104080	B&F Fastener Supply	7100 Sunwood Dr NW	80004595-00	07/31-AV	72097	$ 66.74	Zip Ties	7/31/2024
100103	BERNICK'S PEPSI-COLA CO	PO BOX 7457	I58815	07/31-AV	72098	$ 170.10	Coffee	7/31/2024
103733	BOX/KYLE	3508 EAGLE RIDGE DR E	092624	07/31-AV	72099	$ 198.22	LMC improving local Econ policy Committee	7/31/2024
104021	Braakholter LLC	1017 1st St S	072624	07/31-AV	72100	$ 1,344.21	Concessions	7/31/2024
103647	CAPITAL ONE	PO BOX 60506	070124	07/31-AV	72101	$ 132.56	Breakroom supplies	7/31/2024
103647	CAPITAL ONE	PO BOX 60506	071124	07/31-AV	72101	$ 8.94	Cookies for Coffee With The Cops Event	7/31/2024
103647	CAPITAL ONE	PO BOX 60506	071024	07/31-AV	72101	$ 77.88	Coffee for the Office	7/31/2024
103647	CAPITAL ONE	PO BOX 60506	062524	07/31-AV	72101	$ 20.06	CERT monthly meeting treats & water for Rockin Rob	7/31/2024
103647	CAPITAL ONE	PO BOX 60506	070924	07/31-AV	72101	$ 15.21	Coffee filters and batteries	7/31/2024
103647	CAPITAL ONE	PO BOX 60506	071824	07/31-AV	72101	$ 16.92	Training props	7/31/2024
102157	CLARKE MOSQUITO CONTROL	16277 COLLECTIONS CENTER DR	005109962	07/31-AV	72102	$ 12,210.00	Mosquito Spraying Chemicals	7/31/2024
102984	CODE 4 SERVICES INC	37882 COUNTY HWY 3	9778	07/31-AV	72103	$ 5,871.77	Squad 40 Equipment and Labor	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0039	07/31-AV	72104	$ 48.96	PDS-MASB-24-04	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0037	07/31-AV	72104	$ 60.60	PDS-CUP-24-05 Heurta	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0036	07/31-AV	72104	$ 62.15	PD-CUP-24-04 UCAP	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0035	07/31-AV	72104	$ 60.60	PDS-CUP-24-02 Trident	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0038	07/31-AV	72104	$ 60.60	PDS-CUP-24-06 Walts	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0033	07/31-AV	72104	$ 110.94	Ordinance Notice-Summary of Publication Gas Fran	7/31/2024
104070	Column Software PBC	PO BOX 208098	B15E1683-0034	07/31-AV	72104	$ 68.99	Ordinances Notice-Summary Publication Fran Fee	7/31/2024
103677	COORDINATED BUSINESS SYSTEMS	851 WEST 128TH ST	INV395831	07/31-AV	72105	$ 151.28	Managed Print	7/31/2024
103677	COORDINATED BUSINESS SYSTEMS	851 WEST 128TH ST	INV389606	07/31-AV	72105	$ 204.91	Managed Print Services	7/31/2024
103677	COORDINATED BUSINESS SYSTEMS	851 WEST 128TH ST	INV392313	07/31-AV	72105	$ 2,611.91	Laptop & Docking Station	7/31/2024
103929	COSTAR REALTY INFORMATION	PO BOX 7410662	566420	07/31-AV	72106	$ 3,315.00	STR Destination Report July 1, 2024 -June 30, 2025	7/31/2024
100186	CROW CHEMICAL & LIGHTING	405 BENSON AVE SE	127717	07/31-AV	72107	$ 173.32	Toilet paper, paper towels	7/31/2024
100186	CROW CHEMICAL & LIGHTING	405 BENSON AVE SE	127621	07/31-AV	72107	$ 121.25	Garbage bags, wipes	7/31/2024
100186	CROW CHEMICAL & LIGHTING	405 BENSON AVE SE	127805	07/31-AV	72107	$ 240.45	Toilet paper, garbage bags, wipes	7/31/2024

104151	David Folz	810 5th St SE	0008663	07/31-AV	72108	$ 100.00	shelter damage deposit refund	7/31/2024
100222	DUININCK INC	PO BOX 208	560792	07/31-AV	72109	$ 4,182.87	Gravel and Dirt for Fire Lane and Concrete pad	7/31/2024
100222	DUININCK INC	PO BOX 208	560946	07/31-AV	72109	$ 2,063.88	Asphalt	7/31/2024
100231	ED'S SERVICE CENTER & SALES	919 GORTON AVE NW	147843	07/31-AV	72110	$ 250.00	Tow for ICR 24009150	7/31/2024
103906	ELECTRICAL PRODUCTION SERVICES	4201 NOREX DRIVE	22391	07/31-AV	72111	$ 1,100.00	Door access project progress billing	7/31/2024
100775	FIRST CHOICE FOOD & BEVERAGE	2501 HWY 12 W	2107:035410	07/31-AV	72112	$ 443.52	Chips for DOAC Concessions	7/31/2024
102484	FISCHER/BETH	2104 HWY 12 SE	072924	07/31-AV	72113	$ 192.85	Cell phone and ads	7/31/2024
102973	FLEETPRIDE	PO BOX 847118	118590139	07/31-AV	72114	$ 20.19	Filter	7/31/2024
102973	FLEETPRIDE	PO BOX 847118	118555690	07/31-AV	72114	$ 24.94	Filter	7/31/2024
100293	GENERAL MAILING SERVICES	923 LITCHFIELD AVE SW	70448	07/31-AV	72115	$ 706.22	June Postage - Guides	7/31/2024
100293	GENERAL MAILING SERVICES	923 LITCHFIELD AVE SW	70461	07/31-AV	72115	$ 194.54	Postage - Guides	7/31/2024
100293	GENERAL MAILING SERVICES	923 LITCHFIELD AVE SW	70226	07/31-AV	72115	$ 111.29	Postage - Cases	7/31/2024
100293	GENERAL MAILING SERVICES	923 LITCHFIELD AVE SW	70446	07/31-AV	72115	$ 0.83	Postage	7/31/2024
101887	GRAND RENTAL STATION	PO BOX 686	1-581496	07/31-AV	72116	$ 211.22	Rental of Tamper	7/31/2024
101504	GREENSPRING MEDIA GROUP	5750 NEW KING DR - SUITE 100	2024ci-6421	07/31-AV	72117	$ 1,000.00	MNMO.com Advertising	7/31/2024
100321	HANSEN ADVERTISING SPECIALTIES	PO BOX 651	50818	07/31-AV	72118	$ 560.28	LANYARD	7/31/2024
100321	HANSEN ADVERTISING SPECIALTIES	PO BOX 651	50744	07/31-AV	72118	$ 415.86	VIENNA PEN	7/31/2024
102609	HAUG-KUBOTA LLC	3585 HWY 12 SE	24949	07/31-AV	72119	$ 210.83	Tie Rod Kit	7/31/2024
102609	HAUG-KUBOTA LLC	3585 HWY 12 SE	24990	07/31-AV	72119	$ 95.79	Belt	7/31/2024
900111	HAWK CREEK ANIMAL SHLTR	ATTN: MICHELLE ANDERSON	54047	07/31-AV	72120	$ 11,602.50	July-September Boarding	7/31/2024
100327	HAYNES WINDOW CLEANING SERVICE	302 FRANKLIN ST S	37413	07/31-AV	72121	$ 50.00	WRAC window cleaning-July 2024	7/31/2024
100333	HILLYARD\HUTCHINSON	PO BOX 843775	800696364	07/31-AV	72122	$ (71.09)	Soap	7/31/2024
100333	HILLYARD\HUTCHINSON	PO BOX 843775	700599091	07/31-AV	72122	$ 442.24	Repair vacuum motor	7/31/2024
103936	HOFFMAN CONSTRUCTION CO. LLC	1108 11TH ST SW	INV277	07/31-AV	72123	$ 3,800.00	Becker and 4th St SE Catch Basin	7/31/2024
103936	HOFFMAN CONSTRUCTION CO. LLC	1108 11TH ST SW	INV273	07/31-AV	72123	$ 1,510.00	Becker Ave and 3rd St SW Catch Basin Repair	7/31/2024
103936	HOFFMAN CONSTRUCTION CO. LLC	1108 11TH ST SW	INV275	07/31-AV	72123	$ 3,340.00	Monongalia and 8th St SW Sanitary Sewer Repair	7/31/2024
103936	HOFFMAN CONSTRUCTION CO. LLC	1108 11TH ST SW	INV276	07/31-AV	72123	$ 1,965.00	604 25th Ave SW Catch Basin Repair	7/31/2024
102511	HOLME/MICHAEL	4104 - 104TH AVE NE	073024	07/31-AV	72124	$ 179.00	Meal Reimbursement for Training	7/31/2024
103023	INNOVATIVE OFFICE SOLUTIONS	LOCKBOX #131434	CIN123577	07/31-AV	72125	$ 610.00	Office Chair	7/31/2024
103023	INNOVATIVE OFFICE SOLUTIONS	LOCKBOX #131434	IN4572464	07/31-AV	72125	$ 271.14	Name Badge Supplies	7/31/2024
103926	IRON VALLEY EQUIPMENT & MFG	601 FRANKLIN AVE NE	2358	07/31-AV	72126	$ 1,866.88	Tiger Mower Parts/Knives	7/31/2024
103861	JOE RILEY CONSTRUCTION	PO BOX 379	Appl #2	07/31-AV	72127	$ 441,833.96	Project No. 2404-B Pay Application No. 2	7/31/2024
103861	JOE RILEY CONSTRUCTION	PO BOX 379	Appl #1 2404-A	07/31-AV	72127	$ 65,483.46	Project No. 2404-A Pay Application No. 1	7/31/2024
104152	Judy Hoffer	14852 150th AVE NW	0008556	07/31-AV	72128	$ 100.00	shelter damage deposit refund	7/31/2024
101642	KANDIYOHI CO HISTORICAL SOC	610 HWY 71 NE	07292024	07/31-AV	72129	$ 100.00	Willmar Lakes Area CVB - KCHS Membership	7/31/2024
104101	Levanen Underground LLC	33361 710th Ave	Appl #3	07/31-AV	72130	$ 126,096.78	Project No. 2401-A Pay App No. 3	7/31/2024
103376	LLOYD SECURITY INC	1775 OLD HWY 8 NW-SUITE 110	183660	07/31-AV	72131	$ 134.97	Fire monitoring of PW Garage	7/31/2024
103226	LOCAL GOV'T INFORMATION SYS.	5750 DULUTH ST	40000	07/31-AV	72132	$ 362.50	LOGIS BCA/CJIS review & ESA issues	7/31/2024
102162	LOCATORS & SUPPLIES INC	1614 FIR AVE W	0315542-IN	07/31-AV	72133	$ 2,243.08	Traffic Cones and Safety Gloves	7/31/2024
102593	LOFFLER COMPANIES	131511 BIN #131511	4739726	07/31-AV	72134	$ 34.33	Telephone Charges	7/31/2024
100427	MACQUEEN EQUIPMENT INC	1125 7TH ST E	P58995	07/31-AV	72135	$ 135.15	Sweeper Part	7/31/2024
100437	MARCO TECHNOLOGIES LLC	NW7128	INV12722485	07/31-AV	72136	$ 52.50	shred service	7/31/2024
101838	MARCO TECHNOLOGIES LLC	PO BOX 790448	534695465	07/31-AV	72137	$ 162.28	500-0611665-000	7/31/2024
101838	MARCO TECHNOLOGIES LLC	PO BOX 790448	534695788	07/31-AV	72137	$ 205.39	500-0623211-000	7/31/2024
100449	MENARDS	3330 1ST ST S	80876	07/31-AV	72138	$ 25.52	Rebar for Turf Field Bleachers	7/31/2024
100449	MENARDS	3330 1ST ST S	80742	07/31-AV	72138	$ 270.35	Bleacher Pad for Turf Fields	7/31/2024
100449	MENARDS	3330 1ST ST S	80920	07/31-AV	72138	$ 7.48	tape	7/31/2024
100449	MENARDS	3330 1ST ST S	80017	07/31-AV	72138	$ 117.05	Supplies and Gutters	7/31/2024
100449	MENARDS	3330 1ST ST S	80968	07/31-AV	72138	$ 12.48	Replacement handle and Glue	7/31/2024
100449	MENARDS	3330 1ST ST S	80970	07/31-AV	72138	$ (5.49)	Returned Wooden Handle	7/31/2024

100449	MENARDS	3330 1ST ST S	80971	07/31-AV	72138	$ 7.98	Handle	7/31/2024
100449	MENARDS	3330 1ST ST S	81201	07/31-AV	72138	$ 65.68	Batteries	7/31/2024
103790	MILES PARTNERSHIP,LLLP	PO BOX 669418	101177	07/31-AV	72139	$ 850.00	MN Explorer - July Newsletter	7/31/2024
103729	MILLS PARTS CENTER	2508 AIRPORT DRIVE SW	6209314	07/31-AV	72140	$ 208.84	Exhaust Tube	7/31/2024
101805	MINI BIFF LLC	20530 HWY 15 N	A-150405	07/31-AV	72141	$ 117.30	Mini Biff Hill Top	7/31/2024
101805	MINI BIFF LLC	20530 HWY 15 N	A-150385	07/31-AV	72141	$ 117.30	Mini Biff Archery Park	7/31/2024
101805	MINI BIFF LLC	20530 HWY 15 N	A-150361	07/31-AV	72141	$ 117.30	Minnegasco Park	7/31/2024
101805	MINI BIFF LLC	20530 HWY 15 N	A-150359	07/31-AV	72141	$ 117.30	Gesch Park	7/31/2024
101805	MINI BIFF LLC	20530 HWY 15 N	A-150357	07/31-AV	72141	$ 117.30	Rau Park	7/31/2024
101805	MINI BIFF LLC	20530 HWY 15 N	A-150356	07/31-AV	72141	$ 117.30	Southfield Park	7/31/2024
100496	MN PUBLIC FACILITIES AUTHORITY	1ST NAT'L BANK BLDG	2024-08-20	07/31-AV	72142	$ 4,068,713.33	08/20/24 Bond Payments	7/31/2024
103756	MR. CLEAN WILLMAR CLEANING SER	1020 4TH ST. SW	STMT/02-24	07/31-AV	72143	$ 810.00	Shelter Cleaning	7/31/2024
100541	MUNICIPAL UTILITIES	PO BOX 937	STMT/07-24	07/31-AV	72144	$ 65,789.86	Municipal Utilites-July 2024	7/31/2024
101794	NELSON/CHAD	3130 8TH ST NE	073024	07/31-AV	72145	$ 241.00	Meal and Gas Reimbursement for Training	7/31/2024
100650	O'REILLY AUTOMOTIVE INC	PO BOX 9464	1528-154675	07/31-AV	72146	$ 76.14	Intake Hose	7/31/2024
100650	O'REILLY AUTOMOTIVE INC	PO BOX 9464	15289-154759	07/31-AV	72146	$ 191.23	Exhaust Parts	7/31/2024
104150	Park & Play USA, LLC	PO BOX 1408	1272	07/31-AV	72147	$ 1,507.00	Bleacher Curtain in Events/Rec Center	7/31/2024
102543	PAT'S GRAPHICS	501 1ST ST S	15007	07/31-AV	72148	$ 187.92	Decals	7/31/2024
100608	PETERSON SHOE STORE	BOX 1588	230500	07/31-AV	72149	$ 208.24	Safety boots- Chris Simon	7/31/2024
100374	PREMIUM WATERS INC	PO BOX 9128	330610197	07/31-AV	72150	$ 41.24	Water for DOAC staff	7/31/2024
102582	RAILROAD MANAGEMENT CO III LLC	PO BOX 679962	509225	07/31-AV	72151	$ 379.14	License fee- watermain 450' W of Willmar Ave & 22n	7/31/2024
102582	RAILROAD MANAGEMENT CO III LLC	PO BOX 679962	509224	07/31-AV	72151	$ 379.14	License fee watermain N of Lakeland Dr & Litchfiel	7/31/2024
102582	RAILROAD MANAGEMENT CO III LLC	PO BOX 679962	509223	07/31-AV	72151	$ 379.14	License fee watermain N of 19th Ave along Co Rd 47	7/31/2024
100639	RAMBOW INC	1000 RAMBOW PARKWAY	657365	07/31-AV	72152	$ 20.00	Soccer on the turf shirts	7/31/2024
100639	RAMBOW INC	1000 RAMBOW PARKWAY	653930	07/31-AV	72152	$ 320.00	Wrestling camp shirts	7/31/2024
100639	RAMBOW INC	1000 RAMBOW PARKWAY	653928	07/31-AV	72152	$ 370.00	West center wrestling camp shirts	7/31/2024
100639	RAMBOW INC	1000 RAMBOW PARKWAY	656392	07/31-AV	72152	$ 136.50	Youth Football Mouthguards	7/31/2024
103109	RDO EQUIPMENT CO	1710 EAST COLLEGE DR	P9476911	07/31-AV	72153	$ 614.91	Chipper Parts	7/31/2024
100275	SHI CORP	PO BOX 952121	B18601776	07/31-AV	72154	$ 3,205.08	FY24/25 Netwrix renewal	7/31/2024
103780	SIR LINES-A-LOT LLC	7175 CAHILL RD	H24-0922-001	07/31-AV	72155	$ 23,039.80	2024 pavement markings	7/31/2024
100715	STATE OF MN	OFFICE OF ADMINISTRATIVE HRNGS	526483-2	07/31-AV	72156	$ 36.75	City of Willmar v. Sam Neubauer & Retirement Ass.	7/31/2024
100728	SURPLUS WAREHOUSE INC	3701 OLD HWY 12 W	91408	07/31-AV	72157	$ 7.99	Dust Cap	7/31/2024
100161	SYSCO WESTERN MINNESOTA	900 HWY 10 S	253682780	07/31-AV	72158	$ 509.49	Concessions	7/31/2024
100161	SYSCO WESTERN MINNESOTA	900 HWY 10 S	253682778	07/31-AV	72158	$ 1,159.34	Concessions product DOAC	7/31/2024
100161	SYSCO WESTERN MINNESOTA	900 HWY 10 S	253687253	07/31-AV	72158	$ 645.90	Concessions product at DOAC	7/31/2024
103757	TOM'S BACKHOE SERVICE, INC.	323 WOODLAND HILLS LANE	Appl #2	07/31-AV	72159	$ 426,513.90	ELLS 7, 8 & 9 Pay App No. 2	7/31/2024
103757	TOM'S BACKHOE SERVICE, INC.	323 WOODLAND HILLS LANE	10 Final	07/31-AV	72159	$ 55,585.80	Project No. 2210 Pay Application No. 10 Final	7/31/2024
103143	US BANK EQUIPMENT FINANCE	PO BOX 790448	534127246	07/31-AV	72160	$ 752.27	500-0664928-000 & 500-0664928-001	7/31/2024
100777	VIKING COCA-COLA BOTTLING CO	PO BOX 806	3437586	07/31-AV	72161	$ 351.50	Pop and water for DOAC Concessions	7/31/2024
100777	VIKING COCA-COLA BOTTLING CO	PO BOX 806	3441503	07/31-AV	72161	$ 1,584.65	Concession	7/31/2024
100777	VIKING COCA-COLA BOTTLING CO	PO BOX 806	3432100	07/31-AV	72161	$ 553.25	Concessions	7/31/2024
100796	WEST CENTRAL COMMUNICATION	612 INDUSTRIAL DR	098730S	07/31-AV	72162	$ 90.35	Antenna Kit	7/31/2024
100803	WEST CENTRAL PRINTING	101 5TH ST SW	24606	07/31-AV	72163	$ 19.96	Business Cards for Officer Caron	7/31/2024
101640	WESTMOR INDUSTRIES LLC	PO BOX 683	2069949 RI	07/31-AV	72164	$ 3,431.21	Fuel Pump Diagnose and Repair	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22530092	07/31-AV	72165	$ 414.00	Hydraulic Hose	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531379	07/31-AV	72165	$ 258.62	Battery Inventory	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22529751	07/31-AV	72165	$ 149.99	Brake Parts	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531166	07/31-AV	72165	$ 169.99	Starter Motor	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531645	07/31-AV	72165	$ 234.99	Brake Pads and Rotors	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532082	07/31-AV	72165	$ 305.98	Control Arms	7/31/2024

102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532158	07/31-AV	72165	$ (305.98)	Return Control Arms	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532277	07/31-AV	72165	$ 418.14	Brake Parts	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532161	07/31-AV	72165	$ 265.98	Control Arms	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532081	07/31-AV	72165	$ 149.99	Brake Parts	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532450	07/31-AV	72165	$ 149.99	Brake Parts	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22533013	07/31-AV	72165	$ 461.11	Batteries	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22533133	07/31-AV	72165	$ 265.98	Control Arms	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22533015	07/31-AV	72165	$ 149.99	Brake Parts	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22533275	07/31-AV	72165	$ 643.97	A/C Compressor and Control Arms	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531378	07/31-AV	72166	$ (50.00)	Core Return For Starter	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531644	07/31-AV	72166	$ 49.99	Brake Pads	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531772	07/31-AV	72166	$ 29.99	A/C Recharge Hose	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22530503	07/31-AV	72166	$ 6.98	Spark Plug	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532016	07/31-AV	72166	$ 42.69	Filters	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531979	07/31-AV	72166	$ 28.20	A/C Charge Hose	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532018	07/31-AV	72166	$ 65.98	6"" Receiver and ball	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532342	07/31-AV	72166	$ 136.55	Replacement battery for white generator	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532449	07/31-AV	72166	$ (148.16)	Core Return	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532274	07/31-AV	72166	$ 10.99	Belt	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22532644	07/31-AV	72166	$ 21.98	back-up lamp for #991481	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531522	07/31-AV	72166	$ 101.96	Zamboni	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22531620	07/31-AV	72166	$ 107.88	Zamboni	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22533181	07/31-AV	72166	$ 13.99	DOT4 Brake Fluid	7/31/2024
102689	WILLMAR AUTO VALUE	1411 1ST ST SE	22533137	07/31-AV	72166	$ 44.98	Purge Valve/ Light Bulb	7/31/2024
100812	WILLMAR CHAMBER OF COMMERCE	2104 HWY 12 E	57489	07/31-AV	72167	$ 13,138.79	July Monthly Statement	7/31/2024
100812	WILLMAR CHAMBER OF COMMERCE	2104 HWY 12 E	57486	07/31-AV	72167	$ 70.64	Recycling	7/31/2024
100812	WILLMAR CHAMBER OF COMMERCE	2104 HWY 12 E	57487	07/31-AV	72167	$ 236.08	Managed IT - July	7/31/2024
103859	ZARTICO, INC	26 SOUTH RIO GRAND ST	0001428	07/31-AV	72168	$ 12,500.00	Zartico Operating System 07/01-12/31/24	7/31/2024
	Total					**$ 5,405,996.13**		

VENDOR INVOICE LIST

INVOICE	P.O.	INV DATE	CHECK RUN	CHECK #	INVOICE NET	PAID AMOUNT	DUE DATE	TYPE	STS	DESCR
100467 CENTERPOINT ENERGY										
STMT/06-24		07/15/2024	EFTCK541	541	1,438.82	1,438.82	07/15/2024	DIR	PD	Natura
CHECK DATE: 07/15/2024										
100492 MN DEPT OF REVENUE										
STMT/06-24		07/19/2024	EFTCK542	542	3,847.42	3,847.42	07/20/2024	DIR	PD	Fuel/S
CHECK DATE: 07/19/2024										
103996 UBS Financial Services, INC										
071924		07/19/2024	EFTCK543	543	1,750,000.00	1,750,000.00	07/19/2024	DIR	PD	UBS Mo
CHECK DATE: 07/19/2024										
100467 CENTERPOINT ENERGY										
STMT/06-2024		07/26/2024	EFTCK544	544	4,148.90	4,148.90	07/26/2024	DIR	PD	Natura
CHECK DATE: 07/26/2024										
		4 INVOICES			1,759,435.14					

** END OF REPORT - Generated by Abby Valladarez **

VENDOR	NAME	ADDR1	INVOICE	CHECK RUN	CHECK NO	INVOICE NET	INVOICE DESCRIPTION	CHECK DATE
100467	CENTERPOINT ENERGY	PO BOX 4671	STMT/06-24	EFTCK541	541	1,438.82	Natural Gas-June 2024	45488
100492	MN DEPT OF REVENUE	MAIL STATION 4420	STMT/06-24	EFTCK542	542	3,847.42	Fuel/Sales and Use tax	45492
103996	UBS Financial Services, INC	681 Lake St E	071924	EFTCK543	543	1,750,000.00	UBS Money Market/Treasury Fund Acct	45492
100467	CENTERPOINT ENERGY	PO BOX 4671	STMT/06-2024	EFTCK544	544	4,148.90	Natural Gas-June 2024	45499
	Total					**1,759,435.14**		

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI033849	7/1/2024	1010 Meadow Lane SW	95-600-0030 Block 1 Orchard Hill, Nursery Add	Reroofing Residential Add/Alter	Residential Reroof	$29,000.00	$44.50
WI033907	7/1/2024	709 7th St SW	95-006-3560 Block 81 First Addition To The Town Of Willmar	Reroofing Residential Add/Alter	Residential Reroof	$0.00	$1.00
WI033970	7/1/2024	415 Rice Ave SW	95-280-0340 Block 2 Hanson`s Addition To Willmar	Single Family Replace	Water heater replacement	$4,000.00	$71.00
WI033979	7/1/2024	724 6th St SW	95-006-3500 Block 81 First Addition To The Town Of Willmar	Single Family Replace	Gas Furnace & A/C Replacement	$13,500.00	$56.00
WI033980	7/1/2024	1005 Trott Ave SW	95-006-0010 Block 57 First Addition To The Town Of Willmar	Reroofing Residential Add/Alter	Residential Reroof	$10,000.00	$35.00
WI034005	7/1/2024	1221 1st St S	95-914-1490	Commercial/Ind New	Popeyes Restaurant	$0.00	$370.50
WI034006	7/1/2024	1221 1st St S	95-914-1490	Commercial/Ind New	Popeyes Restaurant	$133,500.00	$1,401.75
WI034024	7/1/2024	712 17th St SE	95-843-0740 Lot 4, Block 7 Welshire Addition	Deck Residential Add/Alter	Residential Deck	$6,000.00	$188.21
WI034041	7/1/2024	424 10th St SW	95-003-6880 Block 56 Willmar, Town Of (Original)	Siding Residential Add/Alter	Residential Reside	$6,000.00	$53.00
WI034057	7/1/2024	1904 7th St SW	95-340-0310 Lot 1, Block 3 Hilltop Park	Alteration Residential Add/Alter	garage roof and wall repair	$6,500.00	$128.00
WI034059	7/1/2024	2012 Prairie Lane SW	95-697-0220 Lot 2, Block 3 Richland Estates	Townhouse Units Replace	AC replacement	$5,143.00	$26.00

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI034060	7/1/2024	908 Walnut Pl SW	95-600-0340 Block 3 Orchard Hill, Nursery Add	Single Family Replace	8790	$0.00	$26.00
WI034061	7/1/2024	616 2nd St SE	95-130-0130 Block 2 Carlson`s Addition To The City Of Willmar	Reroofing Residential Add/Alter	Residential Reroof	$3,962.00	$1.98
WI034062	7/1/2024	905 11th Ave SE	95-665-0630 Lot 23, Block 3 Perkins 5th Addition	Garage Garage/Shed	12x12 shed addition	$2,500.00	$76.00
WI034063	7/1/2024	2504 15th St SW	95-868-0070 Lot 7, Block 1 Westwind Estates	Reroofing Residential Add/Alter	Residential Reroof	$7,600.00	$33.80
WI034064	7/3/2024	416 Highland Rd SW	95-320-0140 Block 2 Highland Place In The City Of Willmar	Single Family Replace	A/C Replacement	$9,800.00	$26.00
WI034065	7/8/2024	817 4th St SW	95-280-0900 Lot 10, Block 5 Hanson`s Addition To Willmar	Drainage system Residential Add/Alter	Interior drain tile system	$12,000.00	$193.25
WI034066	7/8/2024	1015 Ella Ave NW	95-009-1530 Block 136 Second Addition To Willmar	Siding Residential Add/Alter	Residential Reside	$2,800.00	$51.40
WI034067	7/9/2024	629 Richland Ave SW	95-680-0530 Lot 3, Block 3 Portland Acres	Reroofing Residential Add/Alter	Residential Reroof	$5,000.00	$32.50
WI034068	7/9/2024	1326 Business 71 N	95-911-0400	Reroofing Residential Add/Alter	Residential Reroof	$7,466.00	$33.73
WI034069	7/9/2024	3102 Eagle Ridge Dr W	95-148-1640 Lot 4, Block 6 Eagles Landing	Reroofing Residential Add/Alter	Residential Reroof	$5,000.00	$32.50
WI034070	7/9/2024	214 Trott Ave SE	95-740-0920 Block 7 Spicer`s Addition	Reroofing Residential Add/Alter	Residential Reroof	$9,200.00	$4.60

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI034071	7/9/2024	700 4th St SE	95-470-0010 Larson`s Addition	Reroofing Residential Add/Alter	Residential Reroof	$7,000.00	$3.50
WI034073	7/10/2024	221 20th St SE		New Commercial New	New Subway Store	$1,185,931.00	$13,188.56
WI034074	7/11/2024	711 Johanna Ave SE	95-222-1610 Lot 11, Block 8 Ferrings 2nd Addition	Reroofing Residential Add/Alter	Residential Reroof	$10,000.00	$35.00
WI034075	7/12/2024	208 Hawaii St NE	95-730-0830 Lot 13, Block 6 Sperry`s Addition	Reroofing Residential Add/Alter	Residential Reroof	$10,000.00	$35.00
WI034076	7/12/2024	221 20th St SE		Commercial/Ind New	New Subway Store	$0.00	$190.00
WI034077	7/12/2024	221 20th St SE		Commercial/Ind New	New Subway Store	$45,327.00	$475.93
WI034078	7/12/2024	1405 10th St SW	95-800-0090 Lot 9, Block 1 Terwisscha`s Addition	Single Family Replace	Water Heater Replacement	$2,000.00	$26.00
WI034079	7/12/2024	405 Kandiyohi Ave SW	95-280-0010 Block 1 Hanson`s Addition To Willmar	Siding Residential Add/Alter	Residential Reside	$21,600.00	$60.80
WI034080	7/12/2024	2300 21st Ave SW	95-601-0127 Lot 20, Block 2 Ortenblad`s Homesites	Reroofing Residential Add/Alter	Residential Reroof	$4,000.00	$32.00
WI034081	7/12/2024	504 14th St SW	95-015-0410 Lot 2, Block 4 Fourth Railroad Addition	Reroofing Residential Add/Alter	Residential Reroof	$3,000.00	$31.50
WI034082	7/15/2024	1917 Country Club Dr NE	95-465-0040 Lot 4, Block 1 First Addition To Lakewood On Willmar Lake	Siding Residential Add/Alter	Residential Reside	$21,566.00	$60.78
WI034083	7/15/2024	1129 5th St SW	95-915-2660	Reroofing Residential Add/Alter	Residential Reroof	$15,000.00	$37.50

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI034084	7/15/2024	820 3rd St SW	95-280-0860 Lot 6, Block 5 Hanson`s Addition To Willmar	Alteration Residential Add/Alter	Residential Remodel	$5,000.00	$102.25
WI034085	7/15/2024	929 Richland Ave SW	95-132-0240 Lot 4, Block 3 Chief Addition	Single Family Replace	Gas Furnace Replacement	$5,129.00	$31.00
WI034086	7/15/2024	601 3rd St SW	95-006-1730 Block 68 First Addition To The Town Of Willmar	Drainage system Residential Add/Alter	Interior drain tile and sump system	$7,000.00	$128.25
WI034087	7/15/2024	1601 6th St SW	95-700-0410 Lot 11, Block 3 Scandia Terrace Addition	Siding Residential Add/Alter	Residential Reside	$2,400.00	$51.20
WI034088	7/15/2024	2417 21st Ave SW	95-715-0005 Block 1 Southgate Addition	Siding Residential Add/Alter	Residential Reside	$2,000.00	$51.00
WI034089	7/15/2024	1817 Olena Ave SE	95-176-0410 Lot 2, Block 4 Emerald Pond	Alteration Residential Add/Alter	Interior bathroom remodel	$10,154.00	$179.83
WI034090	7/16/2024	3306 Eagle Ridge Dr W	95-149-0010 Lot 1, Block 1 Eagles Landing Twin Addition	Townhouse Units Replace	Gas Furnace & A/C Replacement	$9,325.00	$56.00
WI034091	7/16/2024	1816 22nd Ave SW	95-885-1040 Lot 4, Block 1 Yorktown Estates	Single Family Replace	Gas Furnace & A/C Replacement	$9,637.00	$56.00
WI034095	7/19/2024	1201 Trott Ave SE	95-500-0150 Marlow`s Addition	Reroofing Residential Add/Alter	Residential Reroof	$8,000.00	$34.00
WI034099	7/23/2024	1504 Richland Ave SW	95-868-0430 Lot 1, Block 2 Westwind Estates	Reroofing Residential Add/Alter	Residential Reroof	$25,000.00	$42.50
WI034100	7/23/2024	2007 11th St SW	95-132-0120 Lot 6, Block 2 Chief Addition	Reroofing Residential Add/Alter	Residential Reroof	$20,000.00	$40.00

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI034101	7/23/2024	132 25th St SE	95-165-0050 Block 1 Eastgate Addition	Reroofing Residential Add/Alter	Commercial Reroof	$60,000.00	$667.25
WI034102	7/23/2024	104 32nd Ave NE	95-148-1530 Lot 3, Block 5 Eagles Landing	Siding Residential Add/Alter	Residential Reside	$8,000.00	$54.00
WI034103	7/23/2024	501 21st St SE	95-668-0470 Lot 7, Block 3 Pheasant Run	Siding Residential Add/Alter	Residential Reside	$8,000.00	$54.00
WI034104	7/23/2024	1012 Park Ave NW	95-620-0270 Block 2 Parson`s Subd.	Alteration Residential Add/Alter	Replace porch posts , exterior	$3,519.00	$89.01
WI034105	7/23/2024	1512 7 1/2 St SW	95-922-6380	Siding Residential Add/Alter	Residential Reside	$1,600.00	$51.00
WI034106	7/23/2024	411 Becker Ave SW	95-003-6110 Block 50 Willmar, Town Of (Original)	Commercial/Ind New	New AC Unit	$22,887.00	$11.44
WI034107	7/23/2024	1804 22nd Ave SW	95-868-0700 Lot 1, Block 1 Westwind Estates	Two Family Residence Replace	AC replacement	$5,000.00	$26.00
WI034108	7/23/2024	317 Valley View Dr SE	95-831-0220 Lot 2, Block 2 Valley View Court	Townhouse Units Replace	Furnace replacement	$4,775.00	$31.00
WI034109	7/24/2024	513 25th St SE	95-668-4370 Lot 4, Block 1 Pheasant Run	Drainage system Residential Add/Alter	Drainage system	$2,695.00	$76.10
WI034110	7/24/2024	3301 4th Ave NW	95-833-1150 Lot 5, Block 7 Valley Brook Estates	Single Family Replace	A/C Replacement	$7,156.00	$26.00
WI034112	7/24/2024	1305 19th Ave SW	95-922-7610	Alteration Churches/Schools	Interior Remodel	$130,000.00	$1,776.46
WI034113	7/24/2024	1320 22nd St SW		Commercial/Ind Replace	AC replacement	$6,473.00	$78.24
WI034114	7/24/2024	2209 19th Ave SW	95-921-5490	Single Family Replace	Gas Furnace & A/C Replacement	$7,726.00	$56.00

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI034115	7/24/2024	904 Pleasant View Dr SE	95-671-0870 Pleasant View Second Addition	Single Family Replace	A/C Replacement	$4,565.00	$26.00
WI034116	7/24/2024	322 2nd St SW	95-003-5330 Block 45 Willmar, Town Of (Original)	Commercial/Ind Replace	Replace gas furnace	$5,513.00	$31.00
WI034117	7/24/2024	1805 Lower Trentwood Cir NE	95-828-0760 Lot 7, Block 1 Trentwood Estates	Single Family Replace	A/C Replacement	$4,946.00	$26.00
WI034118	7/24/2024	631 Knollwood Dr NW		Single Family Replace	A/C Replacement	$6,165.00	$26.00
WI034119	7/24/2024	1112 15th St SW	95-042-0330 Block 1 Barnstad`s Second Addition	Single Family Replace	Gas Furnace & A/C Replacement	$9,493.00	$56.00
WI034122	7/25/2024	800 Lake Ave NW	95-009-1700 Block 138 Second Addition To Willmar	Reroofing Residential Add/Alter	Residential Reroof	$9,810.00	$34.91
WI034124	7/25/2024	813 Lakeland Dr NE	95-911-0680	Reroofing Residential Add/Alter	Residential Reroof	$22,000.00	$41.00
WI034125	7/25/2024	1204 17th St SW	95-860-0420 Lot 2, Block 3 West Park 1st Addition	Reroofing Residential Add/Alter	Residential Reroof	$29,000.00	$94.50
WI034127	7/29/2024	2313 6th Ave SE	95-669-0040 Lot 4, Block 1 Pheasant Run Park Estates	Single Family Replace	Gas Furnace & A/C Replacement	$29,000.00	$111.00

City of Willmar
Monthly External Permits Report

Permit #	Issued Date	Site Address		Permit Sub-Type and Work Type	Description	Valuation	Total Permit Fee
WI034128	7/30/2024	515 10th St SW	95-006-0240 Block 58 First Addition To The Town Of Willmar	Single Family Replace	Furmace, AC, water heater replacement	$18,750.00	$81.00

Count: 68 **Totals: $2,115,113.00 $21,359.23**

Year-to-Date Summary (1/1/2024 through 7/31/2024)

Count: 404 **YTD Totals: $47,442,188.00 $454,489.26**

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	10.A.
Agenda Section:	Public Hearing:	**Originating Department:**	Administration
Resolution:	No	**Prepared By:**	Kyle Box, City Operations Director
Ordinance:	Yes	**Presented By:**	Kyle Box, City Operations Director
Item:	Public Hearing Establishing a Gas Franchise Ordinance		

RECOMMENDED ACTION:

1. To approve the Ordinance Establishing a Gas Franchise
2. Publish the Ordinance by Summary

OVERVIEW:
In the Fall of 2023, the City Council directed staff to explore an updated Gas Franchise Ordinance between the City of Willmar and Center Point Energy.

The City of Willmar and Center Point Energy have collaboratively worked to present the City Council with an Ordinance to establish a Gas Franchise in the City of Willmar. This Ordinance will amend the existing Ordinance that was previously established.

A gas franchise is a legal agreement between a municipality and a utility company that grants the company the exclusive right to provide natural gas service within a specified geographic area. This agreement typically includes provisions regarding service obligations, rates, infrastructure maintenance, and fees paid to the local government.

Gas franchises often involve the payment of franchise fees by the utility company to the local government. These fees are based on a percentage or a flat rate of the company's revenues derived from gas sales within the franchise area. This revenue can contribute significantly to the local government's budget, funding public services, infrastructure projects, and other community needs.

By granting a franchise, the local government can regulate and oversee the operations of the gas utility within its jurisdiction. This includes ensuring compliance with safety standards, environmental regulations, and service quality requirements. The franchise agreement establishes the terms under which the utility operates, providing a framework for resolving disputes and addressing community concerns.

Franchise agreements often include provisions for the expansion and maintenance of gas infrastructure within the community. This can lead to improved access to natural gas service for residents, businesses, and institutions, thereby supporting economic development and growth.

BUDGETARY/FISCAL ISSUES:

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:

1. Gas Franchise Ordinance
2. Summary publication Gas Franchise

Gas Franchise Ordinance

ORDINANCE NO. [______]

CITY OF WILLMAR, KANDIYOHI COUNTY, MINNESOTA

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP. d/b/a CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY"), ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSES OF CONSTRUCTING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF WILLMAR, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO THE CITY AND ITS INHABITANTS, AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH THE CITY AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

THE CITY COUNCIL OF THE CITY OF WILLMAR, KANDIYOHI COUNTY, MINNESOTA, ORDAINS:

SECTION 1. <u>DEFINITIONS</u>

For purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

City or Grantor. The City of Willmar, County of Kandiyohi, State of Minnesota.

City Utility System. Facilities used for providing public utility service owned or operated by City or agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting, or other forms of energy.

Commission. The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate gas retail rates now vested in the Minnesota Public Utilities Commission.

Company or Grantee. CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Minnesota Gas its successors and assigns including all successors or assigns that own or operate any part or parts of the Gas Facilities subject to this Franchise.

Gas. "Gas" as used herein shall be held to include natural gas, manufactured gas, or other form of gaseous energy as provided by a "public utility" as defined under Minnesota Statutes, 216B02.

Gas Facilities. Gas transmission and distribution pipes, lines, ducts, fixtures and all necessary equipment and appurtenances owned or operated by the Company for the purpose of providing Gas Energy for retail or wholesale use.

Notice. A writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 505 Nicollet Mall, Minneapolis, Minnesota, 55402. Notice to the City shall be mailed to City of Willmar, 333 6th Street SW, Willmar, Minnesota, 56201. Any party may change its respective address for the purpose of this Ordinance by written Notice to the other parties.

Ordinance. This gas franchise ordinance, also referred to as the Franchise.

Public Way. Any highway, street, alley or other public right-of-way within the City.

Public Ground. Land owned or otherwise controlled by the City for utility easements, park, trail, walkway, open space, or other public property, which is held for use in common by the public or for public benefit.

SECTION 2. ADOPTION OF FRANCHISE

2.1 **Grant of Franchise.** The City (Grantor) hereby grants a non-exclusive franchise to Company (Grantee), its lessees, successors, and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public places as are now within the present or future limits of said Grantor, a natural gas distribution system and Gas Facilities necessary for the purpose of supplying natural gas or processed gas for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such Gas Facilities shall include, but not be limited to, all mains, services, pipes, conduits and appliances necessary or convenient for transmitting, transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance or permit requirements, to the extent consistent with all applicable law including pipeline safety regulations.

2.2 **Term.** The rights and privileges granted by this Ordinance shall remain in effect for a period of Twenty (20) years from the effective date of this Ordinance.

2.3. **Service and Gas Rates.** The terms and conditions of service and the rates to be charged by Company for Gas Energy in the City are subject to the exclusive jurisdiction of the Commission.

2.4. **Publication Expense.** The expense of publication of this Ordinance will be paid by City and reimbursed to the City by Company. The Company will reimburse the cost of summary publication as allowed by Minnesota Law. If the City chooses to publish the entire ordinance, the Company will reimburse an amount equal to the cost of a summary publication.

2.5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written Notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this Franchise or for such other relief as may be permitted by law or equity.

2.6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this Franchise expires, this Franchise will remain in effect until a new franchise is agreed upon, or until ninety (90) days after the City or the Company serves written Notice to the other party of its intention to allow Franchise to expire.

SECTION 3. CONSTRUCTION AND MAINTENANCE OF GAS FACILITIES

3.1. **Location of Facilities.** Gas Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt normal operation of any City Utility System. Gas Facilities may be located on Public Grounds if approved by the City. Company may abandon underground gas facilities in place, provided at the City's request, Company, at its own expense, will remove abandoned metal pipe or concrete encased conduit or other Facilities interfering with a City improvement project, but only to the extent such metal pipe or conduit is uncovered as part of the City improvement project.

3.2. **Field Locations.** Company shall provide field locations for its underground Gas Facilities within City consistent with the requirements of Minnesota Administrative Rules, 7610.1110- 7610.1130.

3.3 **Construction and Maintenance.** Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and to the general public as is reasonably necessary; and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee agrees that for the term of this Franchise, it will use its best efforts to maintain Gas Facilities and equipment sufficient to meet the current and future energy requirements of Grantor, its inhabitants, and industries. While maintaining its Gas Facilities and equipment, Grantee shall remain in compliance with all applicable Willmar City Code rules and regulations, and shall not open or disturb the surface of any Public Ground or Public Way for any purpose without first having obtained a permit from the City, or as required by ordinance, except that in emergency situations requiring the immediate repair of Gas Facilities, Grantee shall take immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. In a reasonable time thereafter, Company shall seek from Grantor to obtain any required permits and pay any required permit fees. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities or work or exceed conditions required by the Commission or other governmental entities with jurisdiction authority over Company.

3.4. **Restoration.** After undertaking any work requiring the opening of any Public Way or Public Ground, the Company shall restore the Public Ways or Public Grounds in accordance with Minnesota Administrative Rules, 7819.1100. The Company shall restore the Public Ground to as good a condition as formerly existed and shall maintain the surface in good condition for six (6) months thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed ten (10) days, the right to make the restoration at the expense of Company. The Company shall pay to the City the cost of such work done for or performed by the City or its designee. This remedy shall be in addition to any other remedy available to the City for noncompliance with this paragraph.

3.5. **Avoid Damage to Gas Facilities.** Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Gas Facilities while performing any activity.

3.6. **Notice of Improvements.** Grantor will give Grantee reasonable notice of plans for improvements within the Public Grounds or Public Ways where the improvement and any paving or resurfacing of a permanent nature may affect Grantee's Gas Facilities. The notice shall contain the nature and character of the improvements, the Public Grounds and Public Ways upon which the improvements are to be made, the extent of the improvements and the time when the Grantor will start the work, and, if more than one the Public Ground or Public Way is involved, the order in which this work is to proceed. The notice shall be given to the Grantee a sufficient length of time, considering seasonable working conditions, in advance of the actual commencement of the work to permit the Grantee to make any additions, alterations, or repairs to its Gas Facilities.

3.7. **Mapping Information.** At the Grantor's request, Grantee must promptly provide mapping information for any of its underground Gas Facilities in accordance with Minnesota Administrative Rules, 7819.4000 and 7819.4100, as the same may be amended from time to time.

3.8. **Extension of Gas Facilities.** Upon receipt and acceptance of a valid application for service from a prospective customer, Grantee shall, subject to its own economic feasibility criteria, including pipeline capacity and upstream supply, make reasonable extensions of its Gas Facilities to serve customers located within the current or future corporate limits of Grantor, subject to state regulations.

SECTION 4. RELOCATIONS

4.1. **Relocation in Public Ways.** The Company and City shall comply with the provisions of Minnesota Administrative Rules, 7819.3100 with respect to requests for the Company to relocate Gas Facilities located in Public Ways.

4.2 **Relocation in Public Grounds.** City may require Company at Company's expense to relocate or remove its Gas Facilities from Public Grounds upon a finding by City that the Gas Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Grounds. Nothing in this subsection shall be construed so as to invalidate or impair any existing company easements in Public Grounds. If Company is required to relocate from an existing easement, City shall provide an equivalent easement for the relocated facilities.

4.3 **Relocation of Gas Facilities in Public Ways and Public Grounds.** The Grantee shall comply with Minnesota Administrative Rules, 7819.3100 and applicable law, and any applicable City ordinances consistent with law regarding relocation of Gas Facilities in Public Ways and Public Grounds. If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, Grantee, upon reasonable notice from Grantor, shall remove and relocate its Gas Facilities or equipment situated in the Public Way, if such removal is necessary to prevent interference and not merely for the convenience of the Grantor, at the cost and expense of Grantee.

4.4 **Relocation**. If Grantor orders or requests Grantee to relocate its Gas Facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference and not merely for the convenience of the Grantor or other right-of-way user, Grantee shall receive payment for the cost of such relocation as a precondition to relocating its Gas Facilities or equipment. Any person or corporation desiring to move a building or other structure along, or to make any unusual use of any street, alley, avenue, bridge, public right-of-way or public place which shall interfere with the Gas Facilities or equipment of the Grantee, shall first give notice to the Grantor and the Grantee and a pay a sum sufficient to cover the expense and damage incident to the moving of Grantee's Gas Facilities and equipment.

4.5 **Projects with Federal Funding**. Relocation, removal or rearrangement of any Company Gas Facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes, 161.46, as supplemented or amended.

SECTION 5. INDEMNIFICATION

5.1. **Hold Harmless.** Grantee, during the term of this Ordinance, agrees to indemnify, save and hold harmless Grantor from and against all claims, demands, losses and expenses on account of injury to persons or damage to property arising directly out of the negligence of Grantee, its employee or agents in the constructing, operating, inspecting and maintaining of the Gas Facilities or appliances of Grantee located in the Public Grounds and Public Ways; provided, however, that Grantee need not indemnify, save and hold harmless Grantor from claims, demands, losses and expenses directly arising out of the negligence of Grantor, its officials, employees or agents.

5.2. **Defense of City.** If the Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This Franchise Agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunities or limitations on liability under Minnesota Statutes, Chapter 466.

SECTION 6. VACATION OF PUBLIC WAYS AND PUBLIC GROUNDS

The City shall give Company at least two (2) weeks prior written Notice of a proposed vacation of a Public Ways or Public Grounds. Pursuant to Minnesota Administrative Rules, Part 7819.3200, if the City vacates a Public Way that contains Gas Facilities of Company and the vacation requires the relocation of the Company's Gas Facilities, payment of the relocation costs must be determined as follows: (1) if the vacation proceedings are initiated by the Company, the Company must pay the relocation costs; (2) if the vacation proceedings are initiated by the City for a public project, the Company must pay the relocation costs unless otherwise agreed to by the City and Company; or (3) if the vacation proceedings are initiated for the purpose of benefiting a person other than the Company, the benefited person must pay the relocation costs. Except where required for a City project, the vacation of any Public Way, after the installation of Gas Facilities, shall not operate to deprive Company of its rights to operate and maintain such Gas Facilities, until the reasonable cost of relocating the same are first paid to Company by the nongovernmental entity in favor of whom the vacation was granted. In no case, however, shall the City be liable to Company for failure to specifically preserve a right of way under Minnesota Statutes, 160.29. The City and the Company shall comply with Minnesota Administrative Rules, 7819.3200 and applicable ordinances consistent with law applicable to right-or-way vacation.

Vacating of a public right-of-way shall not deprive the Grantee of its right to operate and maintain existing Gas facilities, until the reasonable cost of relocating the same is first paid to the Grantee. In accordance with Minnesota Administrative Rules, 7819.3200, if the City vacates a Public Way, which contains Gas Facilities of Company and the vacation does not require relocation of Company's Gas Facilities, the vacation proceedings shall not be deemed to deprive Company of its right to continue to use the right-of-way of the former Public Way for its Gas Facilities installed prior to such order of vacation.

SECTION 7. FRANCHISE FEE

7.1. **Form.** During the term of the Franchise hereby granted, the City may charge the Company a franchise fee. In addition to the franchise fee, Company shall be required to pay only such other fees, charges, costs, or taxes that are generally required to be paid by other businesses or persons in the City. The fee may be (i) a percentage of gross revenues received by the Company for its operations within the City, or (ii) a flat fee per customer based on metered service to retail customers within the City or on some other similar basis, or (iii) a fee based on some other method that is mutually acceptable to both the City and the Company. The method of imposing the franchise fee may differ for each customer class. The amount of the fee collected may differ for each customer class. The City will seek to use a formula that provides a stable and predictable amount of fees, without placing the Company at a competitive disadvantage. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City and be consistent with all applicable and effective Orders of the Minnesota Public Utility Commission. If the Company claims that the City required fee formula is discriminatory or otherwise places the Company at a competitive disadvantage, the Company will provide a formula that will produce a substantially similar fee amount to the City. The City will attempt to accommodate the Company but is under no franchise obligation to adopt the Company-proposed franchise fee formula and each review will not delay the implementation of the City-imposed fee. If the City and Company are unable to agree, the disagreement shall be subject to the Dispute Resolution provisions of this Ordinance.

7.2. **Separate Ordinance.** The franchise fee shall be imposed by separate ordinance duly adopted by the City Council. The effective date of the franchise fee ordinance shall be no less than ninety (90) days after written Notice enclosing a copy of the duly adopted and approved ordinance has been served upon the Company by Certified mail.

7.3. **<u>Condition of Fee.</u>** The separate ordinance imposing the fee shall not be effective against the Company unless it lawfully imposes a fee of the same or substantially similar amount on the sale of energy within the City by any other energy supplier, provided that, as to such supplier, the City has the authority or contractual right to require a franchise fee or similar fee through an agreed-upon franchise.

7.4. **<u>Collection of Fee.</u>** The franchise fee shall be payable not less than quarterly during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time; however, the change shall meet the same Notice requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the City. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments.

7.5. **<u>Continuation of Franchise Fee.</u>** If this Franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this Franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one (1) year after the franchise expires as stated in Section 2. If for any reason the Franchise terminates, the franchise fee will terminate at the same time. If a subsequent franchise ordinance is approved continuing the Franchise, the then existing franchise fee ordinance shall remain in full force and effect without additional action by City and subject to future changes as authorized in the successor franchise ordinance.

7.6. **<u>Continuation of Franchise Fee</u>.** If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remain in effect until a new franchise is agreed upon. However, the franchise fee will not remain in effect for more than one (1) year after the franchise expires as stated in Section 2 of this agreement. If for any reason the franchise terminates, the franchise fee will terminate at the same time.

SECTION 8. <u>PROVISIONS OF ORDINANCE</u>

8.1. **<u>Severability</u>.** If any clause, sentence, or section of this Ordinance is deemed invalid by any judicial, regulatory, or legislative body having proper jurisdiction, the remaining provisions shall not be affected.

8.2. **<u>Limitation on Applicability</u>.** This Ordinance constitutes a franchise agreement between City and Company as the only parties, and no provision of this Franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

8.3 **<u>Confidential Information</u>**. Grantor is subject to the Minnesota Government Data Practices Act (Act). To the extent the following is in compliance with the Act as determined on a case-by-case basis, Grantor acknowledges that certain information it might request pursuant to this

Franchise may be of a proprietary and confidential nature. Subject to the Act, if Grantee requests that any information provided by Grantee to Grantor be kept confidential due to such proprietary or commercial value, Grantor and its employees, agents, and representatives shall maintain the confidentiality of that information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief. Grantor, to the extent permitted by the Act, shall use all reasonable efforts to ensure that the confidentiality of Grantee's confidential information is maintained.

8.4 **Force Majeure.** It shall not be a breach or default under this Franchise if either party fails to perform its obligations hereunder due to Force Majeure. Force Majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid Force Majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance; provided, however, that this provision shall not obligate a party to settle any labor strike.

8.5 **Non-Waiver**. Any waiver of any obligation or default under this Franchise shall not be construed as a waiver of any future defaults, whether of like or different character.

8.6 **Effect and Interpretation of Ordinance**. The captions which precede each section of this Ordinance are for convenience in reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

SECTION 9. AMENDMENT-PROCEDURE

Either party to this Franchise Agreement may at any time propose that the agreement be amended to address a subject of concern and the other party will consider whether it agrees that the amendment is mutually appropriate. If an amendment is agreed upon, this Ordinance may be amended at any time by the City passing a subsequent ordinance declaring the provisions of the amendment, which amendatory ordinance shall become effective upon the filing of Company's written consent thereto with the City Clerk within (ninety) 90 days after the date of final passage by the City of the amendatory ordinance.

SECTION 10. PREVIOUS FANCHISE SUPERSEDED

This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to this Franchise and the same shall supersede all prior ordinances pertaining to this Franchise Agreement, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed.

Ordinance No. [_____] of the City of Willmar, Minnesota, is hereby repealed as of the effective date hereof.

SECTION 11. EFFECTIVE DATE AND ACCEPTANCE

This Ordinance shall become effective and be a binding contract between the Grantor and Grantee, upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon acceptance by Grantee by written instrument within ninety (90) days of passage by the governing body, and filed with the City Clerk of the City of Willmar, Minnesota. The City Clerk shall sign and affix the community seal to acknowledge receipt of such acceptance and return one copy to Grantee. If Grantee does not, within ninety (90) days following passage of this Ordinance express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions. The City, by Council resolution, may revoke this Franchise Agreement or seek its enforcement in a competent jurisdiction, if Company does not file a written acceptance with the City within ninety (90) days after publication of this Ordinance.

Passed by the City Council of the City of Willmar this ___ day of ____________, 2024.

ATTEST:

_________________________________ _________________________________
Leslie Valiant, City Administrator Doug Reese, Mayor

VOTE: ____ SHULDES ____ O'BRIEN ____ DAVIS ____ ASMUS
____ FAGERLIE ____ ASK ____ BUTTERFIELD ____ NELSEN

This Ordinance introduced by Council Member: ____

This Ordinance introduced on: ____

This Ordinance published on: ____

This Ordinance given a hearing on: ____

This Ordinance adopted on: ____

This Ordinance published on: ____

SUMMARY PUBLICATION OF CITY OF WILLMAR ORDINANCE NO. ___

AN ORDINANCE GRANTING CENTERPOINT ENERGY RESOURCES CORP. d/b/a CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY"), ITS SUCCESSORS AND ASSIGNS, PERMISSION TO ERECT A GAS DISTRIBUTION SYSTEM FOR THE PURPOSES OF CONSTRUCTING, OPERATING, REPAIRING AND MAINTAINING IN THE CITY OF WILLMAR, MINNESOTA, THE NECESSARY GAS PIPES, MAINS AND APPURTENANCES FOR THE TRANSMISSION OR DISTRIBUTION OF GAS TO THE CITY AND ITS INHABITANTS, AND OTHERS AND TRANSMITTING GAS INTO AND THROUGH THE CITY AND TO USE THE PUBLIC GROUNDS AND PUBLIC WAYS OF THE CITY FOR SUCH PURPOSES.

Summary: Ordinance No. ___ authorizes CenterPoint Energy to construct, operate, repair, and maintain necessary gas pipes, mains and appurtenances for the transmission or distribution of gas within the City of Willmar and its use of public grounds and public right of ways.

The complete text of Ordinance No. ___ may be obtained at no charge at City Hall (333 6th Street Southwest, Willmar, MN 56201), or from the City's website at www.willmarmn.gov.

WILLMAR MINNESOTA

INC. 1901

City Council Action Request

Council Meeting Date:	August 5, 2024	Agenda Item Number:	10.B.
Agenda Section:	Public Hearing:	Originating Department:	Administration
Resolution:	No	Prepared By:	Kyle Box, City Operations Director
Ordinance:	Yes	Presented By:	Kyle Box, City Operations Director
Item:	Public Hearing Establishing a Gas Franchise Fee Ordinance		

RECOMMENDED ACTION:

1. To Approve the Ordinance Establishing a Gas Franchise Fee
2. Publish the Ordinance by Summary

OVERVIEW:
A gas franchise fee provides a reliable source of revenue for the local government. This revenue can be earmarked for essential services such as road maintenance, public safety, community development projects, environmental sustainability and energy efficiency programs, or other needs determined by the City Council.

Gas companies utilize public rights-of-way to lay pipelines and conduct business operations. Charging a franchise fee ensures that these companies contribute to the upkeep and maintenance of these public assets.

By establishing a franchise fee, the costs associated with maintaining local infrastructure are distributed more equitably across all users and stakeholders, rather than solely burdening taxpayers.

The predictable nature of franchise fee revenue provides stability in budget planning and enables the local government to undertake long-term infrastructure projects and investments.

BUDGETARY/FISCAL ISSUES:

Rate Class Description	Franchise Fee Amount (Monthly)
Residential	$5.00
Small Volume/ Commercial - A	$10.00
Small Volume/ Commercial/ Industrial - B	$17.00

Small Volume/ Commercial/ Industrial - C	$45.00
Small Volume Duel Fuel - A	$50.00
Small Volume Duel Fuel - B	$60.00
Large Volume Duel Fuel	$90.00

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:

1. Franchise Fee Ordinance
2. Summary publication Franchise Fee

Franchise Fee Ordinance

ORDINANCE NO.

AN ORDINANCE IMPLEMENTING A GAS ENERGY FRANCHISE FEE ON CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY") FOR PROVIDING GAS ENERGY SERVICE WITHIN THE CITY OF WILLMAR

The City Council of the City of Willmar dos ordain as follows:

Gas Franchise Fee.

(a) *Definitions.* For the purposes of this Ordinance, the following terms shall have the following meanings:

(1) City. The City of Willmar, County of Kandiyohi, State of Minnesota.

(2) Company. CenterPoint Energy Minnesota Gas ("CenterPoint Energy"), its successors and assigns.

(3) Franchise Agreement. The franchise agreement between the City and the Company pursuant to City Ordinance No. _______________.

(4) Notice. "Notice" means a writing served by any party or parties on any other party or parties. Notice to the Company shall be mailed to CenterPoint Energy, Minnesota Division Vice President, 505 Nicollet Mall, Minneapolis, Minnesota, 55402. Notice to the City shall be mailed to the City Clerk at 333 6th St. SW, Willmar, MN 56201.

(b) *Purpose.* The Willmar City Council has determined that it is in the best interest of the City to impose a franchise fee on those public utility companies that provide natural gas and electric services within the City. Pursuant to the Franchise Agreement the City has the right to impose a franchise fee on the Company.

(c) *Franchise Fee Statement and Schedule.* A franchise fee is hereby imposed on the Company commencing with the October 1, 2024 billing month, and in accordance with the following fee schedule:

Customer Classification	Amount Per Account Per Month ($)
Residential	$5 per month
Commercial A (SVF-A)	$10 per month
Commercial B (SVF-B)	$17 per month
Commercial C (SVF-C)	$45 per month
Small Volume, Dual Fuel A (SVDF A)	$50 per month
Small Volume, Dual Fuel B (SVDF B)	$60 per month
Large Volume, Firm and Dual Fuel (LVDF)	$90 per month

(d) *Account Fee.* This fee is an account-based fee and not a meter-based fee. In the event that an entity covered by this ordinance has more than one meter, but only one account, only one fee shall be assessed to that account. In the event any entities covered by this ordinance have more than one account, each account shall be subject to the appropriate fee. In the event a question arises as to the proper fee amount for any premise, the Company's manner of billing for energy used at all similar premises in the City will control.

(e) *Payment*. Franchise fees are to be collected by the Company, consistent with the Minnesota Public Utility Commission's March 23, 2011, Order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970, and submitted to the City as follows:

January – March collections due by April 30
April – June collections due by July 31
July – September collections due by October 31
October – December collections due by January 31

(f) *Record Support for Payment.* The Company shall make each payment when due and, if requested by the City, shall provide a statement summarizing how the franchise fee payment was determined, including information showing any adjustments to the total made to account for any non-collectible accounts, refunds or error corrections. The Company shall permit the City, and its representatives, access to the Company's records for the purpose of verifying such statements.

(g) *Payment Adjustments*. Payment to the City will be adjusted where the Company is unable to collect the franchise fee. This includes non-collectible accounts.

(h) *Surcharge.* The City recognizes that the Minnesota Public Utilities Commission may allow the Company to add a surcharge to customer rates of city residents to reimburse the Company for the cost of the fee, consistent with the Minnesota Public Utility Commission's March 23, 2011, Order establishing franchise fee filing requirements in Docket No. E,G999/CI-09-970.

(i) *Dispute Resolution*. If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within thirty (30) days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this ordinance or for such other relief permitted by law.

(j) *Effective Date of Franchise Fee*. The effective date of this Ordinance shall be after its publication and ninety (90) days or more after sending written notice enclosing a copy of this adopted Ordinance to the Company by certified mail. Collection of the fee shall commence as provided above.

(k) *Relation to Franchise Agreement*. This ordinance is enacted in compliance with the Franchise Agreement and shall be interpreted as such.

(l) *Periodic Review*. The City Council shall review this ordinance every two (2) years in whatever manner the City Administrator then determines to be appropriate, including, but not limited to, review by the City Council in either a work session or a regular session. Failure to review this ordinance shall not in any way invalidate or limit it.

(m) *Permit Fees*. The Company will administer the collection and payment of franchise fees to the City in lieu of permit fees, or other fees that may otherwise be imposed on the Company in relation to its operations as a public utility in the City so long as the following requirements are met:

(1) The Company applies for any and all permits, licenses and similar documentation as though this provision did not exist.

(2) The Company requests the fee to be waived at the time of application.

Effective Date. This ordinance takes effect as provided herein.

Passed by the City Council of the City of Willmar this ___ day of ____________, 2024.

ATTEST:

______________________________________ ___________________________

Leslie Valiant, City Administrator Doug Reese, Mayor

VOTE: ____ SHULDES ____ O'BRIEN ____ DAVIS ____ ASMUS
____ FAGERLIE ____ ASK ____ BUTTERFIELD ____ NELSEN

This Ordinance introduced by Council Member: ___________________________________

This Ordinance introduced on: ____

This Ordinance published on: ____

This Ordinance given a hearing on: ____

This Ordinance adopted on: ____

This Ordinance published on: ____

SUMMARY PUBLICATION OF CITY OF WILLMAR ORDINANCE NO. ___

AN ORDINANCE IMPLEMENTING A GAS ENERGY FRANCHISE FEE ON CENTERPOINT ENERGY MINNESOTA GAS ("CENTERPOINT ENERGY") FOR PROVIDING GAS ENERGY SERVICE WITHIN THE CITY OF WILLMAR

Summary: Ordinance No. ___ establishes a gas energy franchise fee on CenterPoint Energy for providing gas energy services within the City of Willmar.

The complete text of Ordinance No. ___ may be obtained at no charge at City Hall (333 6th Street Southwest, Willmar, MN 56201), or from the City's website at www.willmarmn.gov.

WILLMAR MINNESOTA
INC. 1901

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	11.A.
Agenda Section:	Regular Business	**Originating Department:**	Administration
Resolution:	No	**Prepared By:**	
Ordinance:	No	**Presented By:**	
Item:	Presentation from the Coalition of Greater MN Cities, Bradley Peterson		

RECOMMENDED ACTION:

OVERVIEW:

BUDGETARY/FISCAL ISSUES:

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
None

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	11.B.
Agenda Section:	Regular Business	**Originating Department:**	Administration
Resolution:	No	**Prepared By:**	Kyle Box, City Operations Director
Ordinance:	No	**Presented By:**	Eric Rudningen, Airport Supervisor
Item:	Master Agreement for Professional Services Willmar Municipal Airport		

RECOMMENDED ACTION:
To Approve the Master Agreement for Professional Services for the Willmar Municipal Airport

OVERVIEW:
On June 3, 2024 the City Council authorized staff to begin negotiations with Bolton and Menk for Airport Engineering and Planning Services. Included in the Council packet is the Master Agreement between the City of Willmar and Bolton and Menk.

To proceed with airport-related projects, the city must submit engineering plans and specifications for MnDOT Aeronautics grant awards and funding. To be eligible for federal funding, the city must also have a consulting engineer. As the aviation field is such a precise niche, the consultant will assist with preparing these documents and provide guidance on the funding process.

BUDGETARY/FISCAL ISSUES:
Fees will be based on each approved project.

ALTERNATIVES TO CONSIDER:
None Recommended

ATTACHMENTS:
1. BDH_Master_Agreement_2024_2029_061124

MASTER AGREEMENT FOR PROFESSIONAL SERVICES

AIRPORT PLANNING, ENGINEERING AND CONSTRUCTION SERVICES
JULY 2024 THROUGH JUNE 2029

WILLMAR MUNICIPAL AIRPORT (BDH)

CITY OF WILLMAR, MINNESOTA

This Agreement made this 17th day of June 2024, by and between the City of Willmar, 333 6th Street SW, Willmar, MN 56201, hereinafter referred to as CLIENT, and BOLTON & MENK, INC., 2040 US Highway 12, Willmar, MN 56201, hereinafter referred to as CONSULTANT.

WITNESS, whereas the CLIENT requires professional services in conjunction with future airport planning, engineering, and construction services as listed in the ACIP for the Willmar Municipal Airport and whereas the CONSULTANT agrees to furnish the various professional services required by the CLIENT throughout the 5-year Airport Consultant Selection period.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

SECTION 1 - CONSULTANT'S SERVICES

A. The CONSULTANT agrees to perform the various Basic Services in connection with the proposed project as described in future Work Orders.

B. Upon mutual agreement of the parties hereto, Additional Services may be authorized as described in subsequent Work Orders or as described in Paragraph 4.B and the associated Work Order may be revised accordingly through a mutually agreed addendum.

SECTION 2 - THE CLIENT'S RESPONSIBILITIES

A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section 3 of this Agreement.

B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include, but is not limited to: boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, and zoning limitations. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.

C. The CLIENT will guarantee access to and make all provisions for entry upon public portions of the project and reasonable efforts to provide access to private portions and pertinent adjoining properties.

D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.

E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret, and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.

F. The CONSULTANT'S services do not include legal, insurance counseling, accounting, independent cost estimating, financial advisory or "municipal advisor" (as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act 2010 and the municipal advisor registration rules issued by the SEC) professional services and the CLIENT shall provide such services as may be required for completion of the Project described in this Agreement.

G. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the Project. CONSULTANT will assist CLIENT with permit preparation and documentation to the extent described in Exhibit A.

H. The CLIENT may hire, at its discretion, when requested by the CONSULTANT, an independent test company to perform laboratory and material testing services, and soil investigation that can be justified for the proper design and construction of the Project. The CONSULTANT shall assist the CLIENT in selecting a testing company. Payment for testing services shall be made directly to the testing company by the CLIENT and is not part of this Agreement. If CLIENT elects not to hire an independent test company, CLIENT shall provide CONSULTANT with guidance and direction on completing those aspects of design and construction that require additional testing data.

SECTION 3 - COMPENSATION FOR SERVICES

A. FEES.

1. The CLIENT will compensate the CONSULTANT in accordance with the applicable Exhibit B Schedule of Fees (“Schedule of Fees”) attached to each future Work Order for the time spent in performance of Agreement services or as otherwise explicitly described in the future Work Order or Addendum for the specific assignment.

2. Additional Services as outlined in Section 1.B and 4.B will vary depending upon project conditions and will be billed in addition to the agreed compensation in each Work Order.

   a. Construction Services

      The CONSULTANT and CLIENT agree that the duration of the construction activity is dependent upon factors that are outside of the control of the CONSULTANT, such as weather, site conditions, contractor experience, contractor expertise, contractor scheduling and contractor efficiency. When the extent of these construction services beyond the control of the CONSULTANT occurs, the CLIENT agrees that the CONSULTANT will be reimbursed for additional Construction Services in excess of the budget stated in the Work Order. Compensation shall be based on the standard hourly rate for the individuals providing services on the project.

3. Basic Services as outlined in each Work Order will vary depending upon project conditions and will be billed in accordance with the rate schedule attached to the Work Order. Hourly rates may be adjusted by CONSULTANT, on an annual basis thereafter to reflect reasonable changes in its operating costs, or as may be appropriate for a specific Task Order. Adjusted rates will become effective on January 1st of each subsequent year; or, upon mutual agreement of the parties and inclusion in a Task Order, upon execution of that Task Order

4. Rates and charges do not include sales tax. If such taxes are imposed and become applicable after the date of this Agreement CLIENT agrees to pay any applicable sales taxes.

5. The rates in the Schedule of Fees include labor, general business and other normal and customary expenses associated with operating a professional business. Unless otherwise agreed in writing, the above fees include vehicle and personal expenses, mileage, telephone, survey stakes and routine expendable supplies; and no separate charges will be made for these activities and materials.

6. Reimbursable Direct Expenses: Except for those expenses identified in Paragraph 3.A.5, any expenses required to complete the agreed scope of services or identified in this paragraph will be listed separately on the invoice, and include but are not limited to large quantities of prints; extra report copies; out-sourced graphics and photographic reproductions; document recording fees; special field and traffic control equipment rental; outside professional and technical assistance; geotechnical services; and other items of this general nature required by the CONSULTANT to fulfill the terms of this Agreement. CONSULTANT shall be reimbursed at cost plus an overhead fee (not-to-exceed 10%) for these Direct Expenses incurred in the performance of the work, subject to any limit set forth in Section 3 or any Task Order.

B. PAYMENTS AND RECORDS

1. The payment to the CONSULTANT will be made by the CLIENT upon billing at intervals not more often than monthly at the herein rates and terms.

2. If CLIENT fails to make any payment due CONSULTANT for undisputed services and expenses within 45 days after date of the CONSULTANT'S invoice, a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, will be charged on any unpaid balance.

3. In addition to the service charges described in preceding paragraph, if the CLIENT fails to make payment for undisputed services and expenses within 60 days after the date of the invoice, the CONSULTANT may, upon giving seven days' written notice to CLIENT, suspend services and withhold project deliverables due under this Agreement until CONSULTANT has been paid in full for all past due amounts for undisputed services, expenses and charges, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to the CLIENT.

4. <u>Documents Retention.</u> The CONSULTANT will maintain records that reflect all revenues, costs incurred, and services provided in the performance of the Agreement. The CONSULTANT will also agree that the CLIENT, State, or their duly authorized representatives may, at any time during normal business hours and as often as reasonably necessary, have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices of the CONSULTANT which are relevant to the contract for a period of six years.

SECTION 4 - GENERAL

A. STANDARD OF CARE

Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the CONSULTANT'S profession currently practicing under similar conditions. No warranty, express or implied, is made.

B. CHANGE IN PROJECT SCOPE

In the event the CLIENT changes or is required to change the scope or duration of the project from that described in this Agreement, any Task Order or Addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the applicable hourly rates. To the fullest extent practical, the CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such Additional Services. Except for Additional Services required to address emergencies or acts of God that impact the Project, the CONSULTANT shall furnish an estimate of additional cost, prior to authorization of the changed scope of work. Any change will be memorialized in writing and executed, either as an Addendum to this Agreement or the affected Task Order; or issuance of a new Task Order for the Additional Services.

C. LIMITATION OF LIABILITY

1. General Liability of CONSULTANT. For liability other than professional acts, errors, or omissions, and to the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CLIENT from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from claims or actions relating to the project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, but only to the extent caused by the acts and omissions in the non-professional services of CONSULTANT or CONSULTANT'S employees, agents, or subconsultants.

2. Professional Liability of CONSULTANT. With respect to professional acts, errors and omissions and to the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from third-party claims or actions relating to the project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, but only to the extent caused by a negligent act, error or omission of CONSULTANT or CONSULTANT'S employees, agents, or subconsultants. This indemnification shall include reimbursement of CLIENT'S reasonable attorneys' fees and expenses of litigation, but only to the extent that defense is insurable under CONSULTANT'S liability insurance policies.

3. General Liability of CLIENT. To the fullest extent permitted by law and subject to the maximum limits of liability set forth in Minnesota Statutes Section 466.04, CLIENT shall indemnify, defend and hold harmless CONSULTANT from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from third-party claims or actions relating to the project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or

destruction of tangible property, but only to the extent caused by the acts or omission of CLIENT or CLIENT'S employees, agents, or other consultants.

4. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services provided hereunder.

5. To the fullest extent permitted by law, CLIENT and CONSULTANT waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, from any cause or causes.

6. CLIENT waives all claims against individuals involved in the services provided by CONSULTANT under this Agreement and agrees that any claim, demand, or suit shall be directed/asserted only against the CONSULTANT's corporate entity.

D. INSURANCE

1. The CONSULTANT agrees to maintain, at CONSULTANT'S expense a commercial general liability (CGL) and excess or umbrella general liability insurance policy or policies insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities. The general liability coverage shall provide limits of not less than $2,000,000 per occurrence and not less than $2,000,000 general aggregate. Coverage shall include Premises and Operations Bodily Injury and Property Damage; Personal and Advertising Injury; Blanket Contractual Liability; Products and Completed Operations Liability.

2. The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, a single limit or combined limit automobile liability insurance and excess or umbrella liability policy or policies insuring owned, non-owned and hired vehicles used by CONSULTANT under this Agreement. The automobile liability coverages shall provide limits of not less than $1,000,000 per accident for property damage, $2,000,000 for bodily injuries, death and damages to any one person and $2,000,000 for total bodily injury, death and damage claims arising from one accident.

3. CLIENT shall be named Additional Insured for the CGL and Auto liability policies.

4. The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage together with Coverage B, Employer's Liability limits of not less than $500,000 for Bodily Injury by Disease per employee, $500,000.00 for Bodily Injury by Disease aggregate and $500,000 for Bodily Injury by Accident.

5. The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from a negligent act, error or omission in the performance of professional services required by this Agreement during the period of CONSULTANT'S services and for three years following date of final completion of its services. The professional liability insurance coverage

shall provide limits of not less than $2,000,000 per claim and an annual aggregate of not less than $2,000,000 on a claims-made basis.

6. CLIENT shall maintain statutory Workers Compensation insurance coverage on all of CLIENT'S employees and other liability insurance coverage for injury and property damage to third parties due to the CLIENT'S negligence.

7. Prior to commencement of this Agreement, CONSULTANT will provide the CLIENT with certificates of insurance, showing evidence of required coverages. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement for any reason except non-payment of premium, until at least 30 days prior written notice has been given to the Certificate Holder, and at least 10 days prior written notice in the case of non-payment of premium

E. OPINIONS OR ESTIMATES OF CONSTRUCTION COST

Where provided by the CONSULTANT as part of any Task Order or Addendum or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CLIENT and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.

F. CONSTRUCTION SERVICES

It is agreed that the CONSULTANT and its representatives shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall CONSULTANT have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at any Project site, nor for any failure of a contractor to comply with Laws and Regulations applicable to that contractor's furnishing and performing of its work. CONSULTANT shall not be responsible for the acts or omissions of any contractor. CLIENT acknowledges that on-site contractor(s) are solely responsible for construction site safety programs and their enforcement.

G. USE OF ELECTRONIC/DIGITAL DATA

1. Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable for this Agreement or except as otherwise explicitly provided in this Agreement , all electronic/digital data developed by the CONSULTANT as part of the project is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the CLIENT is advised and acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees).

2. Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this Agreement, unless such third-party use and adaptation or distribution is explicitly authorized by this Agreement.

H. REUSE OF DOCUMENTS

1. Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this Agreement are instruments of service in respect to the project and CONSULTANT shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall hereby be granted a license in all identified deliverables (including Reports, Plans and Specifications) for any reasonable use relative to the project and the general operations of the CLIENT. Such license to Owner shall not create any rights in third parties.

2. CLIENT may make and disseminate copies for information and reference in connection with the use and maintenance of the project by the CLIENT. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the project associated with any particular Task Order or Addendum or on any other project. Any reuse by CLIENT or, any other entity acting under the request or direction of the CLIENT, without written verification or adaptation by CONSULTANT for such reuse will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT and CLIENT shall indemnify and hold harmless CONSULTANT from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from such reuse.

3. Previously Created Works and Documents of CONSULTANT. Notwithstanding the foregoing, CONSULTANT retains title and interest in all of its standard details, plans, specifications and engineering computation documents ("Previously Created Works and Documents"), whether in written or electronic form, which have been incorporated into the deliverables and documents provided to CLIENT, but which were developed by CONSULTANT independent of this Agreement. CONSULTANT issues to CLIENT a royalty-free, nonexclusive and irrevocable license to use the Previously Created Works and Documents for the Project.

I. CONFIDENTIALITY

CONSULTANT agrees to keep confidential and not to disclose to any person or entity, other than CONSULTANT'S employees and subconsultants any information obtained from CLIENT not previously in the public domain or not otherwise previously known to or generated by CONSULTANT. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of CONSULTANT; or is furnished to CONSULTANT by a third party who is under no obligation to keep such information confidential; or is information for which the CONSULTANT is required to provide by law or authority with proper jurisdiction; or is information upon which the CONSULTANT must rely for defense of any claim or legal action.

J. PERIOD OF AGREEMENT

This Agreement will remain in effect for the longer of a period of five (5) years after written authorization to proceed is issued by CLIENT; or until the specified completion date for any subsequently issued Task Order or Addendum that falls after the end of that period; or such other expressly identified completion date, after which time the Agreement may be extended upon mutual agreement of both parties.

K. HAZARDOUS MATERIALS

1. Except as expressly stated in a specific Task Order, the parties acknowledge that CONSULTANT'S Services do not include any services related to Constituents of Concern. If CONSULTANT or any other party encounters, uncovers, or reveals a Constituent of Concern at the Project site or should it become known in any way that such materials may be present at the site or any adjacent areas that may affect the performance of the CONSULTANT's services, then CONSULTANT may, at its option and without liability for consequential or any other damages: 1) suspend performance of Services on the portion of the Project affected thereby until the CLIENT retains appropriate specialist consultant(s) or contractor(s) to identify, abate and/or remove such materials, and warrant that the site is in full compliance with applicable laws and regulations; or, 2) terminate the applicable specific Task Order if it is not practical to continue providing Services.

   a. Constituent of Concern is defined as asbestos, petroleum, radioactive material, polychlorinated biphenyls (PCBs), lead based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to laws and regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.

L. TERMINATION

1. For Cause: This Agreement or any Task Order may be terminated by either party upon 7 days written notice in the event of substantial failure by other party to perform in accordance with the terms of this Agreement through no fault of the terminating party.

   a. For termination by CONSULTANT, Cause includes, but is not limited to, failure by CLIENT to pay undisputed amounts owed to CONSULTANT within 120 days of invoice and delay or suspension of CONSULTANT's services for more than 120 days for reasons beyond CONSULTANT'S cause or control.

   b. Notwithstanding the foregoing and with consent of terminating party, this Agreement will not terminate under paragraph 4.L.1 if the party receiving such notice immediately commences correction of any substantial failure and cures the same within 10 days of receipt of the notice.

2. For Convenience: This Agreement or any Task Order may be terminated for convenience by CLIENT upon 7 days written notice to CONSULTANT.

3. The notice of termination shall identify the individual Task Order being terminated, or if the terminating party intends to terminate the entire Agreement the notice shall so state. This Termination process shall apply only to those elements expressly identified in the notice.

4. In the event of termination by CLIENT for convenience or by CONSULTANT for cause, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section 3 of this Agreement. Upon receipt of payment, CONSULTANT shall deliver, and CLIENT shall have, at its sole risk, right of use of any completed or partially completed deliverables, subject to provisions of Paragraph 4.H.

5. In event of termination by CLIENT for cause, CLIENT shall compensate CONSULTANT for all undisputed amounts owed CONSULTANT as of date of termination and, upon receipt of payment, CONSULTANT shall deliver to CLIENT and CLIENT shall have, at its sole risk, right of use of any completed or partially completed deliverables, subject to the provisions of Section 4.H. All other matters will be resolved in accordance with the Dispute Resolution clause of this Agreement.

M. INDEPENDENT CONTRACTOR

Nothing in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners between the parties hereto or as constituting the CONSULTANT or any of its employees as the agent, representative, or employee of the CLIENT for any purpose or in any manner whatsoever. The CONSULTANT is to be and shall remain an independent contractor with respect to all services performed under this Agreement.

N. CONTINGENT FEE

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Agreement.

O. NON-DISCRIMINATION

The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein. **The CONSULTANT is an Equal Opportunity Employer** and it is the policy of the CONSULTANT that all employees, persons seeking employment, subcontractors, subconsultants and vendors are treated without regard to their race, religion, sex, color, national origin, disability, age, sexual orientation, marital status, public assistance status or any other characteristic protected by federal, state or local law.

P. ASSIGNMENT

Neither party shall assign or transfer any interest in this Agreement without the prior written consent of the other party.

Q. SURVIVAL

All obligations, representations and provisions made in or given in Section 4 and Documents Retention clause of this Agreement will survive the completion of all **services** of the CONSULTANT under this Agreement or the termination of this Agreement for any reason.

R. SEVERABILITY

Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and CONSULTANT, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

S. CONTROLLING LAW

This Agreement is to be governed by the law of the State of Minnesota and venued in Kandiyohi County District Court, Eight Judicial District, Minnesota; or at the choice of either party, and if federal jurisdictional requirements can be met, in federal court in the district in which the project is located.

T. DISPUTE RESOLUTION

CLIENT and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall then be submitted to mediation using a neutral from the Minnesota District Court Rule 114 Roster, or if mutually agreed at time of dispute submittal, a neutral from the American Arbitration Association Construction Industry roster. If mediation is unsuccessful in resolving the dispute, then either party may seek to have the dispute resolved by bringing an action in a court of competent jurisdiction.

U. MINNESOTA GOVERNMENT DATA PRACTICES ACT

All data collected, created, received, maintained, or disseminated, or used for any purposes in the course of the CONSULTANT'S performance of the Agreement is governed by the Minnesota Government Data Practices Act, Minnesota Statutes Section 13.01, et seq. or any other applicable state statutes and state rules adopted to implement the Act, as well as state statutes and federal regulations on data privacy. The Consultant agrees to abide by these statutes, rules, and regulations and as they may be amended. In the event the CONSULTANT receives a request to release data, it shall notify CLIENT as soon as practical. The CLIENT will give instructions to CONSULTANT concerning release of data to the requesting party and CONSULTANT will be reimbursed as Additional Services by CLIENT for its reasonable expenses in complying with the request

V. SECTION 508 OF THE REHABILITATION ACT

All electronic Information Technology (IT) procured, developed, maintained or used as part of this Contract shall comply with Section 508 standards.

W. FEDERAL CONTRACT PROVISIONS

The agreement includes all provisions of the attached Exhibit I, "Required A/E Contact Provisions apply for Airport Improvement Program and for Obligated Sponsors" for Architectural/Engineering Professional Services funded under the Federal Airport Improvement Program (AIP) are deemed part of this agreement and are incorporated herein. All references to "contractor" shall also mean "CONSULTANT".

X. AUDIT REVIEW

The CLIENT, the Federal Aviation Administration, the Comptroller General of the United States, or any of the duly authorized representatives shall have access to any books, documents, papers, and records of consultants, which are directly pertinent to a specific grant program, for the purpose of making audits, examinations, excerpts, and transcriptions. CONSULTANT shall maintain all required records for 3 years after the sponsor makes final payment and all other pending matters are closed.

SECTION V - SIGNATURES

THIS INSTRUMENT embodies the whole agreement of the parties, there being no promises, terms, conditions or obligation referring to the subject matter other than contained herein. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf.

CLIENT: City of Willmar

CONSULTANT: Bolton & Menk, Inc.

Mr. Doug Reese   Mayor

Mr. Silas Parmar   Principal Engineer

Ms. Leslie Valiant   City Administrator

Attachment: Exhibit I, "Federal Contract Provisions Attachment"

EXHIBIT I

Federal Contract Provisions for A/E Agreements

All references made herein to "Contractor", "Prime Contractor", "Bidder", "Offeror", and "Applicant" shall pertain to the Architect/Engineer (A/E).

All references made herein to "Subcontractor", "Sub-tier Contractor" or "lower Tier Contractor" shall pertain to any subconsultant under contract with the A/E.

All references made herein to "Sponsor" and "Owner" shall pertain to the state, city, airport authority or other public entity executing contracts with the A/E.

PROVISIONS APPLICABLE TO ALL CONTRACTS

ACCESS TO RECORDS AND REPORTS

Reference: 2 CFR § 200.334
2 CFR § 200.337
FAA Order 5100.38

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

CIVIL RIGHTS – TITLE VI ASSURANCES

Reference: 49 USC § 47123
FAA Order 1400.11

Title VI Solicitation Notice

The Sponsor, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

Nondiscrimination Requirements / Title VI Clauses for Compliance

Compliance with Nondiscrimination Requirements:

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

    a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

    b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Reference: 2 CFR § 200, Appendix II(K)
2 CFR § 200.216

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq
2 CFR § 200.430

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR Part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

RIGHT TO INVENTIONS

Reference: 2 CFR Part 200, Appendix II(F)
37 CFR Part 401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

SEISMIC SAFETY

Reference: 49 CFR Part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

TAX DELINQUENCY AND FELONY CONVICTIONS

Reference: Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts
DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

The Contractor certifies:

1) It is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2) It is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months. A felony conviction is a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

The Contractor agrees to incorporate the above certification in all lower tier subcontracts.

TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104
49 CFR Part 30

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or

2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or

3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING $10,000

DISTRACTED DRIVING

Reference: Executive Order 13513
DOT Order 3902.10

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Reference: 2 CFR Part 200, Appendix II(C)
41 CFR § 60-1.4
41 CFR § 60-4.3
Executive Order 11246

Equal Opportunity Clause

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers’ representative of the Contractor’s commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor’s noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled,

terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance*: Provided,* however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

PROHIBITION OF SEGREGATED FACILITIES

Reference: 2 CFR Part 200, Appendix II(C)
41 CFR Part 60-1

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

TERMINATION OF CONTRACT

Reference: 2 CFR Part 200, Appendix II(B)
FAA Advisory Circular 150/5370-10, Section 80-09

Termination for Convenience (Professional Services)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

Termination for Cause (Professional Services)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party seven (7) days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:

   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or
   3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant:** The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:

   1. Defaults on its obligations under this Agreement;
   2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;

3. Suspends the project for more than one hundred eighty (180) days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING $25,000

DEBARMENT AND SUSPENSION

Reference: 2 CFR Part 180 (Subpart B)
2 CFR Part 200, Appendix II(H)
2 CFR Part 1200
DOT Order 4200.5
Executive Orders 12549 and 12689

Certification of Offeror/Bidder Regarding Debarment

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Certification of Lower Tier Contractors Regarding Debarment

The successful bidder, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING $100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Reference: 2 CFR Part 200, Appendix II(E)
2 CFR § 5.5(b)
40 USC § 3702
40 USC § 3704

1. Overtime Requirements.

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment
2 CFR Part 200, Appendix II(I)
49 CFR Part 20, Appendix A

Certification Regarding Lobbying

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING $150,000

CLEAN AIR AND WATER POLLUTION CONTROL

References: 2 CFR Part 200, Appendix II(G)
42 USC § 7401, et seq
33 USC § 1251, et seq

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

The Contractor must include this requirement in all subcontracts that exceed $150,000.

BREACH OF CONTRACT TERMS

Reference: 2 CFR § 200 Appendix II(A)

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR Part 26

Prime Contracts (Contracts Covered by a DBE Program)

Contract Assurance (49 CFR § 26.13)

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) Withholding monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (49 CFR § 26.29)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from Owner. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.

INC· 1901

WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	11.C.
Agenda Section:	Regular Business	**Originating Department:**	Public Works
Resolution:	Yes	**Prepared By:**	Kelsi Delbosque, Administrative Assistant
Ordinance:	No	**Presented By:**	Jared Voge, P.E. City Engineer
Item:	County Project No. 2403-A Cooperative Construction Agreement		

RECOMMENDED ACTION:
Adopt the resolution approving the Cooperative Construction Agreement with Kandiyohi County for Project No. 2403-A in the amount of $162,897.

OVERVIEW:
The County has construction scheduled in 2024 for an overlay project of Willmar Avenue (CSAH 23) from 22nd Street SW to State Highway 23 (Project No. 2403-A). They are requesting the City's participation in removing and replacing sections of sidewalk, adjusting catch basin castings, concrete curb and gutter, and new loop detectors at the Lakeland Drive intersection.

BUDGETARY/FISCAL ISSUES:
The County estimates the City's portion of the agreement is $162,897.

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
1. Resolution- Accept County Cooperative Construction Agreement
2. Cooperative Construction Agreement

Resolution No.__________

A RESOLUTION AUTHROIZING ENTERING INTO COOPERATIVE CONSTRUCTION AGREEMENT BETWEEN THE CITY AND KANDIYOHI COUNTY FOR PROJECT NO. 2403-A WILLMAR AVE (CSAH 23) OVERLAY.

Motion By:______________________ Second By:_____________________

BE IT RESOLVED by the City Council of the City of Willmar, a Municipal Corporation of the State of Minnesota, that the Mayor and City Administrator be authorized to enter into a Cooperative Construction Agreement between the City of Willmar and Kandiyohi County for Project No. 2403-A Willmar Avenue (CSAH 23) overlay.

Dated this 5th day of August, 2024

____
Mayor

Attest:

____
City Clerk

KANDIYOHI COUNTY & CITY OF WILLMAR
COOPERATIVE CONSTRUCTION AGREEMENT
SAP 034-623-030
IMPROVEMENT PROJECT

THIS AGREEMENT, made this _______ day of ______________, 2024, by and between the COUNTY OF KANDIYOHI, MINNESOTA, party of the first part, hereinafter known as COUNTY and the CITY OF WILLMAR, MINNESOTA, a municipal corporation, party of the second part, hereinafter known as CITY, WITNESSETH:

That the parties to this agreement, each in consideration of the agreement on the part of the other herein obtained, do hereby agree, the COUNTY for itself, and the CITY for itself, as follows:

SAP 034-623-030
THIS agreement shall apply only to the improvement of County State Aid Highway (CSAH) 23 (Willmar Avenue) from 22nd Street SW to State Highway 23 as detailed in the SAP 034-623-030 improvement plans for said project.

Administration of the Project
The CITY agrees that the COUNTY shall hereafter act as the agent of the CITY in the award and administration of the contract for the SAP 034-623-030 improvement plans.

Low Bid Construction Costs
Estimated low bid construction costs incurred by the respective parties of this agreement are shown in **Exhibit A**, which is attached to and made part of this agreement.

County Costs
The COUNTY agrees to finance, with its own funds, all items shown on the plan for SAP 034-623-030. The COUNTY also agrees to provide, with its own funds, design and construction testing services.

City Costs and Payments
The CITY agrees to reimburse the COUNTY for 100% of the city construction items as shown under "CITY QUANTITY" as provided in the attached **Exhibit A**.

The CITY also agrees that upon presentation of reimbursable costs certified to the CITY by a COUNTY generated Request for Payment; the CITY shall make payment within 30 days.

Designated COUNTY/CITY Representatives
The Kandiyohi County Public Works Director shall be the designated COUNTY representative to approve any needed modification of work shown in the Plans during construction of the project. This includes the increase or decrease in quantities needed to accomplish the work or a change in the work requiring a Change Order. The City of Willmar Public Works Director shall be the designated CITY representative to approve any needed modification of the Plans affecting City costs requiring a Change Order.

COUNTY AND CITY APPROVAL

IN TESTIMONY WHEREOF, the County of Kandiyohi, by the authority of the Board of Commissioners, and the City of Willmar, by the authority of the of the City Council, have caused this agreement to be enacted, the day and year first written above.

CITY OF WILLMAR

Date:______________________________

BY:______________________________ City Mayor

BY:______________________________ City Administrator

Approved as to Form and Execution this _______ day of __________________, 2024

____

Robert Scott, City Attorney

COUNTY OF KANDIYOHI

Date:______________________________

By:______________________________ Chairman of County Board

BY:______________________________ County Auditor/ Treasurer

Approved as to Form and Execution this _______ day of __________________, 2024

____

Shane Baker, County Attorney

EXHIBIT A

		KANDIYOHI COUNTY PUBLIC WORKS		SAP 034-623-030		Duininck, Inc.		Low Bid		4/30/24	
LINE	SPEC. NO.		UNIT	UNIT PRICE	COUNTY QUANTITY	COUNTY AMOUNT	CITY QUANTITY	CITY AMOUNT	TOTAL QUANTITY	TOTAL AMOUNT	LINE
1	2104.502	Remove Casting	Each	$ 215.00		$ -	4	$ 860.00	4	$ 860.00	1
2	2104.503	Remove Concrete Curb & Gutter	Lin Ft	$ 38.00	369	$ 14,022.00		$ -	369	$ 14,022.00	2
3	2104.503	Sawing Bituminous Pavement (Full Depth)	Lin Ft	$ 5.00	28	$ 140.00		$ -	28	$ 140.00	3
4	2104.504	Remove Bituminous Pavement	Sq Yd	$ 18.00	108	$ 1,944.00		$ -	108	$ 1,944.00	4
5	2104.504	Remove Concrete Drivway	Sq Yd	$ 25.00	885	$ 22,125.00		$ -	885	$ 22,125.00	5
6	2104.518	Remove Concrete Walk	Sq Ft	$ 2.00		$ -	8877	$ 17,754.00	8,877	$ 17,754.00	6
7	2221.509	Shoulder Base Aggregate Class 1	Ton	$ 40.00	65	$ 2,600.00		$ -	65	$ 2,600.00	7
8	2231.604	Bituminous Patch Special (0"to 12")	Sq Yd	$ 44.00	185	$ 8,140.00		$ -	185	$ 8,140.00	8
9	2232.504	Mill Bituminous Surface (1.5")	Sq Yd	$ 4.15	9850	$ 40,877.50		$ -	9,850	$ 40,877.50	9
10	2232.504	Mill Bituminous Surface (2.5")	Sq Yd	$ 5.45	12718	$ 69,313.10		$ -	12,718	$ 69,313.10	10
11	2360.509	Type SP 4.75 Wearing Course Mixture (3,C)	Ton	$ 105.00	1000	$ 105,000.00		$ -	1,000	$ 105,000.00	11
12	2360.509	Type SP 12.5 Wearing Course Mixture (3,C)	Ton	$ 90.00	8420	$ 757,800.00		$ -	8,420	$ 757,800.00	12
13	2504.602	Adjust Valve Box	Each	$ 100.00	24	$ 2,400.00		$ -	24	$ 2,400.00	13
14	2504.602	Adjust Frame And Ring Casting	Each	$ 250.00	35	$ 8,750.00		$ -	35	$ 8,750.00	14
15	2506.502	Adjust Catch Basin Casting	Each	$ 400.00		$ -	44	$ 17,600.00	44	$ 17,600.00	15
16	2506.602	Furnish & Install Frame And Ring Casting (Catch	Each	$ 1,200.00		$ -	4	$ 4,800.00	4	$ 4,800.00	16
17	2521.518	4" Concrete Walk	Sq Ft	$ 11.20		$ -	6260	$ 70,112.00	6,260	$ 70,112.00	17
18	2521.518	6" Concrete Walk	Sq Ft	$ 15.30	2617	$ 40,040.10		$ -	2,617	$ 40,040.10	18
19	2531.503	Concrete Curb & Gutter Design B624	Lin Ft	$ 59.00		$ -	369	$ 21,771.00	369	$ 21,771.00	19
20	2531.504	6" Concrete Driveway Pavement	Sq Yd	$ 118.00	993	$ 117,174.00		$ -	993	$ 117,174.00	20
21	2531.618	Truncated Domes	Sq Ft	$ 65.00	588	$ 38,220.00		$ -	588	$ 38,220.00	21
22	2563.601	Traffic Control Phase 1	LS	$ 11,800.00	1	$ 11,800.00		$ -	1	$ 11,800.00	22
23	2563.601	Traffic Control Phase 2	LS	$ 2,450.00	1	$ 2,450.00		$ -	1	$ 2,450.00	23
24	2563.601	Traffic Control Phase 3	LS	$ 4,650.00	1	$ 4,650.00		$ -	1	$ 4,650.00	24
25	2565.602	Preformed Rigid PVC Conduit Loop Detector	Each	$ 1,500.00		$ -	20	$ 30,000.00	20	$ 30,000.00	25
26	2573.502	Storm Drain Inlet Protection	Each	$ 140.00	28	$ 3,920.00		$ -	28	$ 3,920.00	26
27	2575.501	Turf Establishment	LS	$ 515.00	1	$ 515.00		$ -	1	$ 515.00	27
28	2580.501	Interim Pavement Marking	LS	$ 7,500.00	1	$ 7,500.00		$ -	1	$ 7,500.00	28
29	2582.503	4" Broken Line Paint	Lin Ft	$ 0.24	3740	$ 897.60		$ -	3,740	$ 897.60	29
30	2582.503	4" Solid Line Paint	Lin Ft	$ 0.24	42559	$ 10,214.16		$ -	42,559	$ 10,214.16	30
31	2582.503	4" Double Solid Line Paint	Lin Ft	$ 0.48	5470	$ 2,625.60		$ -	5,470	$ 2,625.60	31
32	2582.503	24" Solid Line Paint	Lin Ft	$ 10.30	760	$ 7,828.00		$ -	760	$ 7,828.00	32
33	2582.518	Pavement Message Multi-Component	Sq Ft	$ 13.80	1260	$ 17,388.00		$ -	1,260	$ 17,388.00	33
34	2582.518	Crosswalk Multi-Component	Sq Ft	$ 13.80	1368	$ 18,878.40		$ -	1,368	$ 18,878.40	34
						$1,317,212.46		**$162,897.00**		**$ 1,480,109.46**	

INC· 1901

WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	Agenda Item Number:	11.D.
Agenda Section:	Regular Business	**Originating Department:**	Administration
Resolution:	Yes	**Prepared By:**	Kyle Box, City Operations Director
Ordinance:	No	**Presented By:**	Kyle Box, City Operations Director
Item:	Fiber Use Agreement Between the City of Willmar and Hometown Fiber		

RECOMMENDED ACTION:
To Approve a Resolution authorizing a Fiber Use Agreement Between the City of Willmar and Hometown Fiber, LLC.

OVERVIEW:
The City of Willmar has drafted a Fiber Use Agreement for the use and management of City-owned fiber infrastructure. This is a complex agreement that has warranted a thorough review from city staff, Hometown Fiber, Legal Counsel, Bond Counsel, and Municipal Financial Advisors. The goal of this agreement is to state that the City of Willmar desires to construct and maintain a fiber optic communications network to serve the residents and businesses of Willmar and that the City of Willmar further desires that a Manager (Hometown Fiber) operate the City Network on its behalf.

BUDGETARY/FISCAL ISSUES:
Financial Provisions are detailed in the agreement. The City is not obligated to make any payments under this agreement until the program is operational.

ALTERNATIVES TO CONSIDER:

1. Provide any amendments or alterations to the agreement
2. Do not approve the proposed agreement
3. Table the agreement to a future meeting

ATTACHMENTS:
1. Resolution HTF
2. Fiber Use Agreement with Hometown Fiber, LLC

3. Exhibit A - Definitions
4. Exhibit B - HTF COI
5. Exhibit C - Maps
6. Exhibit E - Manager Compensation

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF WILLMAR TO ENTER INTO AN AGREEMENT WITH HOMETOWN FIBER, LLC

Motion By: ____________________ Second By:____________________

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, to authorize the Mayor and the City Administrator to enter into an agreement with Hometown Fiber LLC, for a proposed Fiber Infrastructure Project.

Dated this 5th day of August, 2024

____
MAYOR

Attest:

____
CITY CLERK

FIBER COMMUNICATIONS OPERATION CONTRACT

Dated as of ________, 2024

between

HOMETOWN FIBER

and

CITY OF WILLMAR, MINNESOTA

FIBER COMMUNICATIONS OPERATION CONTRACT

This Fiber Communications Operation Contract (the "Contract") is made and entered into as of [__________], 2024, by and between Hometown Fiber LLC, a Minnesota limited liability company (the "Manager"), and the City of Willmar, Minnesota (the "City"), a municipal corporation and a political subdivision of the State of Minnesota (the Manager and the City are sometimes referred to individually as a "Party" and collectively as "Parties" herein).

RECITALS

Pursuant to Minnesota Statute § 429.021, subd. 1(19), cities may improve, construct, extend, and maintain facilities for Internet access and other communications purposes, including fiber optic communications networks.

The City now desires to cause to be constructed and maintained an open access advanced fiber optic communications network to serve residents of the City (the "City Network") through the undertaking of the improvements contemplated (as more fully described herein, the "Improvements") and desires further that the Manager operate the City Network on its behalf.

The City Council finds that its construction and operation of the City Network by the Manager pursuant to this Agreement is necessary to make available high speed Internet access in a quality and reliability that will not be available through other providers or the private market in the reasonably foreseeable future, and that the City Network will be open to private internet service providers on equal terms and thus will not compete with services provided by private entities.

The City Council finds that through the construction and operation of the City Network by the Manager, the City:

(1) will not discriminate in favor of the City's own communications facilities by granting the City more favorable or less burdensome terms and conditions than a nonmunicipal service provider with respect to: (A) access and use of public rights-of-way; (B) access and use of City owned or controlled conduit, towers, and utility poles; and (C) permitting fees charged to access City owned and managed facilities;

(2) will maintain separation between the City's role as a regulator over firms that offer services in competition with the services offered by the City over the City's communications service facilities, and the City's role as a competitive provider of services over the City's communications service facilities; and

(3) will not share inside information between employees or contractors responsible for executing the City's role as a regulator over firms that offer communications services in competition with the communication services offered by the City, and employees or contractors responsible for executing the City's role as a competitive communications services provider.

The City will consider financing and owning the City Network as a public improvement through abatement bonds issued pursuant to Minnesota Statutes § 469.1814.

The City will acquire, install, construct, and complete the City Network in a multi-phase construction project.

The Manager has substantial experience and expertise in operating fiber optic communications networks and in marketing to, and coordinating with, Internet Service Providers to provide internet services to consumers.

The City has determined that the Manager possesses the personnel and resources to assist the City in carrying out the Governmental Program by managing and operating the City Network.

The City will at all times own the City Network in its entirety and provide the Manager and approved Internet Service Providers, subject to an Internet Service Provider Agreement, with access to and use of the City Network only as necessary to operate and manage the City Network for the benefit of the public on the City's behalf as contemplated in this Contract.

The Parties understand that they are entering into this Contract for the operation of the City Network prior to the City's final determination regarding the feasibility of the construction of the City Network, the City's determination regarding the funding of such City Network, and the actual construction of the City Network, and have included provisions to account for these future uncertainties in this Contract.

The Parties understand that execution of this Contract is necessary even before the City makes a final determination regarding the funding, feasibility, and construction of the City Network so that the roles and obligations of each Party may be sufficiently agreed upon and defined and to allow the Manager to timely perform its obligations under this Contract and under the Parties' separate Consultant Services Agreement (the "Consultant Agreement").

It is the intention of the Parties that the City will pay or cause to be paid certain charges to the Manager for the services to be provided under this Contract, which charges will be calculated in accordance with this Contract.

AGREEMENT

In consideration of the terms and conditions of this Contract, the City and the Manager agree as follows:

ARTICLE I

DEFINITIONS

In addition to the terms defined in the recitals and elsewhere in this Contract, the following terms, whether in the singular or in the plural, when used herein and in the exhibits hereto, shall have the meanings set forth below:

1.1 “Alterations” shall mean any alterations, additions, modifications, replacements, or improvements to the City Network beyond ordinary maintenance provided under the Manager Fee and for which the Manager intends to bill the City directly or seek reimbursement from the City and which do not constitute Capital Improvements.

1.2 “Broadband Commission” shall mean a Commission established by the City and with members appointed by the City pursuant to Willmar City Charter Section 4.01.

1.3 “Capital Improvements” shall mean any substantial improvements made to the City Network and any non-recurring improvements to extend the useful life of the City Network. Capital Improvements shall not include ordinary maintenance, emergency repairs or repairs completed to restore the City Network to its preexisting condition without extending its useful life.

1.4 “City” means the City of Willmar, Minnesota.

1.5 “City Network” means fiber optic lines, connection lines and related improvements owned by the City, including the Mainline System, Network Operations Center (NOC), Residential Installations and Non-Residential Installations, together with the acquisition of access rights and capacity in other networks.

1.6 “City Network Construction Drawings and Specifications” means those engineering construction drawings for the construction of the City Network created by Bolton & Menk, Inc. in coordination with the Manager pursuant to the Consultant Agreement, and once completed, the “as-built” plans and specifications for the City Network.

1.7 “Connection Services” means the services provided by the Manager to the City pursuant to this Contract whereby End Users located primarily within the City have access to the City Network and the ability to contract with private Internet Service Providers to receive fiber-optic broadband internet services through the City Network. Connection Services to be provided are more particularly described in in the Scope of Work, attached hereto and incorporated herein by reference as <u>Exhibit A</u>.

1.8 “Consultant Agreement” means the Consultant Services Agreement entered into between the Parties on October 23, 2023, which addresses other services provided by Manager to the City related to the planning for and engineering design of the City Network and which constitutes a separate agreement from this Contract.

1.9 “Contract” means this Fiber Communications Operation Contract dated as of [__________], 2024, as it may be amended from time to time in accordance with Section 14.14 herein.

1.10 “Drop Installation” means residential and business drop cable installations to subscribed locations and End Users primarily located within the City as described in Subsection 4.2.16.

1.11 “Effective Date” means the date on which this Contract becomes fully executed.

1.12 "End User" means those Residential and Non-Residential users of the City Network that connect to the City Network, which users will primarily be located within the City of Willmar, to be provided services pursuant to this Contract.

1.13 "End User Fee" means a fee equivalent to five dollars ($5.00) per End User receiving Internet Services, which the City shall pay to the Manager as part of the Manager's compensation pursuant to the terms of this Agreement.

1.14 "Expiration Date" means the earlier of:

(a) Five (5) years after the Operational Date; or

(b) December 31, 2033.

1.15 "Field Technician Services" means services performed by technician(s), also referred to as "fiber optic splice technicians", that handle on-site servicing, diagnostics, Minor Repairs of the City Network, and other services further described in the Scope of Work, attached as Exhibit A.

1.16 "Governmental Program" means the City's establishment of an open access high-speed fiber-optic broadband infrastructure network for use by the residents and businesses primarily located in the City as End Users through End User contracts with ISPs, as supported by the day-to-day operation, management, maintenance and use of the City Network by the Manager for the benefit of the public.

1.17 "High Availability Circuit" means a network connection designed to ensure continuous and reliable service with minimal downtime. High Availability (HA) Circuits are commonly used in environments where downtime can have significant negative impacts, such as: data centers, financial services, healthcare providers and Hospitals, and e-commerce environments. HA Circuits are crucial for businesses and services that require constant network access and cannot afford interruptions. Features of HA Circuits include:

(a) Redundancy: Multiple paths or circuits to ensure that if one circuit fails, another can take over without disruption. This often involves using diverse physical paths and redundant hardware components.

(b) Automatic Failover: The ability to automatically switch to a backup circuit in case the primary circuit fails. This ensures minimal interruption to the service.

(c) Load Balancing: Distributing network traffic across multiple circuits to optimize performance and avoid overloading any single circuit. This can improve overall network efficiency and reliability.

(d) Real-Time Monitoring: Continuous surveillance of the network to detect issues immediately and trigger failover mechanisms when necessary. This often involves sophisticated monitoring tools and systems.

(e) Service Level Agreements (SLAs): Contracts with service providers that guarantee a certain level of uptime and performance. SLAs typically include commitments to quick response times for repairs and maintenance.

(f) Geographic Diversity: Utilizing circuits that are geographically separated to reduce the risk of simultaneous failure due to local disasters or outages.

(g) Uninterruptible Power Supply (UPS): Ensuring that power disruptions do not affect the network circuits by using UPS systems or generators.

1.18 "Improvements" means those facilities, improvements, and access, lease, use and/or capacity rights acquired, constructed, and/or installed, operated and maintained by the City or the Manager, within or without the City limits, or specifically undertaken for the benefit of the City, to provide Connection Services to the End Users pursuant to this Contract, as more fully described in Exhibit A.

1.19 "Internet Services" means services for accessing, using, managing, or participating in the internet as well as any other service which End Users may contract to be provided by Internet Service Providers through the City Network.

1.20 "Internet Service Providers" means private companies with which End Users may contract to receive internet access and services through the City Network.

1.21 "Internet Service Provider (ISP) Agreement" means the agreement to be entered into between the City, the Manager, and the ISPs and which will describe conditions through which an ISP may provide Internet Service to End Users utilizing the City Network.

1.22 "ISP Fee" means a fee paid to the City by each ISP pursuant to an ISP Agreement. The ISP fee shall be calculated as a percentage of the Retail Fee collected from End Users by the ISP for the Internet Services for which each End User contracts. The percentage upon which the ISP Fee is based shall be set forth in the City's Fee Schedule, as amended from time to time.

1.23 "Mainline System" means all of the newly installed fiber, conduits, NOCs, handholes restorations and other materials within public rights-of-way as depicted in Exhibit C, attached hereto and incorporated herein by reference.

1.24 "Major Repairs" means any unplanned maintenance or repair of the City Network, or unplanned replacement of any portion of the City Network, necessitated by damage to the City Network, which requires an immediate technical response, or which are such repairs that extend beyond the scope of services performed by the Manager as Field Technician Services and Minor Repairs. Major Repairs shall not include "Minor Repairs," such as day-to-day and scheduled maintenance A Major Repair is a repair that meets one of the following requirements:

(a) Requires immediate technical response, and:
   i. Results in an outage that impacts more than 100 subscribers;
   ii. Interrupts one or more High Availability Circuits;
   iii. Interrupts a Trunk cable; or
   iv. Interrupts a fiber optic cable with 864 and greater strands of fiber.

(b) Requires heavy equipment to restore such as a bobcat, mini-excavator, excavator, dozer, trenchers, and/or emergency locating services.
(c) Requires more than one fiber optic splice technician to restore.
(d) Requires temporary circuits to be constructed for rapid restoration.

1.25 "Manager" means Hometown Fiber LLC, a Minnesota limited liability company.

1.26 "Manager Fee" means the monthly compensation paid to the Manger by the City for the day-to-day operation, management, maintenance and use of the City Network by the Manager for the benefit of the public.

1.27 "Membership Fee" means the flat, fee as found in the City's Fee Schedule, payable upon the effective date of each ISP Agreement and each renewal period thereof, which the ISPs will pay to the City for the ability to provide fiber-optic broadband Internet Services to End Users through the City Network and to access City property, including NOCs, to provide such services.

1.28 "Minor Repair" means any scheduled, planned, or preventative maintenance or repair of the City Network that shall not be considered a Major Repair. A Minor repair is a repair that meets one of the following requirements:

(a) Can be achieved during normal business hours.
(b) Is achieved within a planned maintenance window.
(c) Impacts less than 100 subscribers.
(d) Can take more than 24-hours to restore.
(e) Does not require heavy equipment to restore.
(f) Can be restored with one fiber optic splice technician.

1.29 "Network Operations Center" or "NOC" means a centralized location/secure facility to house fiber optic panels, edge computing equipment, routers, switches, security, surveillance, fiber terminations, conduits, cables, racking, generator, UPS units, cooling systems, and internet service provider (ISP) equipment. The NOC will provide physical access and electronic security along with dedicated and locked rooms for ISPs. It is a neutral facility where data can be exchanged between the broader internet and ISPs and between ISPs and their customers. The NOC is where computer, telecommunications or other network systems are monitored and managed. The ISPs shall provide their own equipment for the NOC and shall have access to the NOC as outlined in the ISP Agreement.

1.30 "Operating Contingency" means an unplanned event or circumstance, a series of events or circumstances, or any restriction or condition imposed by any governmental authority which reduces and materially adversely affects access to the City Network.

1.31 "Operational Date" means the date to be subsequently established by agreement of the Parties and will be the earlier of:

(a) The date the first user of the network is activated; or

(b) January 1, 2029.

1.32 "Outreach and Education Contract" means that scope of community outreach and education services approved by the City on [DATE], as described further in Exhibit D, attached hereto and incorporated herein by reference, to be performed by the Manager prior to the construction of the City Network.

1.33 "Renewal Term" shall have the meaning set forth in Section 2.3 below.

1.34 "Retail Fee" means the monthly fee paid by each End User to the ISP for Internet Services provided by the ISP through the City Network based upon the amount and the types of products and services delivered to the End User in accordance with the ISPs product catalog, and which will be collected together with all other fees the End User pays for Internet Services and products provided by the ISP.

1.35 "Term" has the meaning ascribed to such term in 2.2 hereof.

1.36 "Uncontrollable Forces" means any cause beyond the control of the Party affected, including, but necessarily limited to: acts of God, failure of facilities other than the City Network operated and maintained pursuant to this contract, fire or other casualty, earthquake, hurricane, tornadoes, named storms, flood, war, riot, intervention by civil or military authorities of government, insurrection or other civil commotion, governmental action, material shortages, Work Stoppages, or any other similar or like event or occurrence beyond the reasonable control of a Party hereto, that causes such Party to be delayed or hindered in, or prevented from, the performance of any covenant or obligation hereunder. Unavailability of funds shall not constitute Uncontrollable Forces.

ARTICLE II

GRANT OF RIGHTS AND TERM

2.1 Grant.

2.1.1 The City, for and in consideration of the payments and agreements of the Manager contained herein, hereby grants to the Manager and its agents, the exclusive right to use the City Network for the purpose of assisting the City in operating and managing the City Network after the Operational Date and for the duration of the Term, subject to the terms, conditions and provisions of this Contract.

2.1.2 The Manager shall have no rights to use the City Network other than those rights specifically granted in this Contract. The City does not relinquish the right of access to the City Network; provided, however, that such access by the City shall not unreasonably interfere with the use of the City Network by the Manager or Manager's agents, or the ISPs, pursuant to this Contract. A reservation by the City of some specific right in this Contract shall not be construed as granting to the Manager any rights not mentioned or not specifically reserved by the City in this Contract.

2.1.3 The Manager, having reviewed the City Network Construction Drawings and Specifications, hereby represents as of the date of this Contract that nothing has come to their attention to cause them to believe that the City Network will not be, as of the Operational Date, in all material respects fit for their intended purposes and reasonably suitable for use hereunder assuming that the City Network is properly constructed in substantial accordance with the City Network Construction Drawings and Specifications.

2.2 Term The term of this Contract shall commence upon the Effective Date and shall continue for a period of five (5) years beginning on the Operational Date and ending on the Expiration Date (the "Term"), unless either; (a) earlier terminated pursuant to the provisions of Section 2.4, or (b) renewed as provided in Section 2.3.

2.3 Renewal. This Contract may be renewed for up to three (3) successive five (5) year term(s) (each a "Renewal Term") and the Expiration Date shall be adjusted accordingly for the Renewal Term(s), upon the Manager making written application for such a renewal term to the City no later than 180 days in advance of the Expiration Date, and provided that the City determines, in its sole discretion pursuant to Article VII herein, that (1) the Manager has the means and resources to and will continue to manage and operate the City Network in furtherance of the Governmental Program; and (2) the City wants the Manager to continue to manage and operate the City Network in furtherance of the Governmental Program. The City shall notify the Manager in writing of its approval or denial of an application for a renewal term no later than 90 days in advance of the Expiration Date. In the event that (a) the Manager fails to deliver to the City such renewal notice prior to the final 180-day period of the Contract; or (b) City does not respond to such timely renewal notice 90 days prior to the Expiration Date, then this Contract shall be deemed terminated. Nothing herein shall require the City to renew this Contract beyond the initial term; the City may, at its sole option and discretion, allow this Contract to expire at the end of the Term or any Renewal Term as applicable, and thereafter directly manage and operate the City Network as it would be operated by the Manager under this Contract, or contract with some other entity or entities to do so, as a part of the Governmental Program. Unless agreed otherwise by the Parties, the Contract shall terminate on the Expiration Date.

2.4 Termination. Notwithstanding any provisions to the contrary contained in this Contract, the above initial Term or any Renewal Term or extensions thereof shall be for a period terminating upon the date of (a) the Expiration Date, (b) the Manager's failure to carry out the Governmental Program through its management and operation of the City Network for the benefit of the residents of the City pursuant to this Contract, (c) the termination of the Governmental Program or change in the Governmental Program that no longer allows the City to own the City Network and/or operate the Governmental Program thereon; or (d) the City's sale of the City Network to a third party as allowed by law. Notwithstanding anything to the contrary herein, the City may terminate this Contract at any time prior to the Operational Date if it determines, in its sole discretion, that the City Network or the financing thereof is not feasible; provided however, that after providing written notice of its intent to terminate this Contract for infeasibility of the City Network or financing thereof, the City shall meet with the Manager and negotiate the terms of this Contract for a minimum period of thirty (30) days before such termination may take effect in order to explore whether there may be a mutually agreeable amendment(s) to this Agreement that could resolve the financial infeasibility of the operation of the City Network or the financing thereof to the City's satisfaction. Any such amendment(s) agreed to through this process shall be approved pursuant to Section 14.14 below.

ARTICLE III

CITY NETWORK AND IMPROVEMENTS: OWNERSHIP AND USE

3.1 Suitability for Use

3.1.1 The Manager hereby stipulates and agrees that the City Network will be, as of the Operational Date, in all material respects fit for its intended purposes and reasonably suitable for use hereunder if the City Network has been constructed in accordance with City Network Construction Drawings and Specifications.

3.1.2 The City shall own and control the City Network, subject to the rights of the Manager under this Contract.

3.2 Ownership of Improvements. It is agreed and understood that all real and personal property constituting the Improvements and the City Network shall be owned by the City.

3.3 Manager's Permitted Use. The Manager shall have the right to operate and manage the City Network and provide Connection Services using the City Network. The Manager shall use reasonable efforts consistent with industry standards to not allow any activity that is unlawful, creates any nuisance or fire hazard, or will damage or otherwise have a deleterious effect upon the City Network or the reputation of the City. The Manager shall use the City Network in compliance with all applicable Laws.

3.4 City's Reserved Rights.

3.4.1 City Access.

(a) City staff and its agents shall have reasonable access at all times to all premises upon which physical components of the City Network are installed during Manager's use thereof as determined by the Director of the Public Works Department of the City.

(b) At any time during Manager's use of the City Network, the City may take any and all measures necessary or desirable for the operation, safety, protection or preservation of the City Network, including emergency repairs, alterations, additions or improvements. The City may exercise any or all of the foregoing rights without being deemed guilty of disturbing the Manager's use and without being liable in any manner to the Manager or its agents, and without affecting the Manager's obligations hereunder.

(c) The Manager and the City shall ensure that no City personnel or elected officials are compensated with free or reduced Connection Services or Internet Services provided by ISPs for which service is charged to the general public.

3.4.2 City Connections. The City shall receive a minimum of twelve (12) strands of dark fiber optic cable between each City building and the nearest Network Operations Center (NOC).

3.4.3 City Facilities and City Network. The City shall be responsible for and have full control over the portion of the City Network which services the City's own facilities, including but not limited to: the Network Operations Center (NOC) building. Nothing in this Section shall limit the Manager's obligation to provide Connection Services from the NOC, to maintain, repair, or otherwise utilize the NOC, or limit any of the Manager's other responsibilities under this Contract. This Section also does not prevent the Manager from providing access to the NOC to ISPs pursuant to an ISP Agreement.

3.4.4 Outside Funding. The City shall have the right to solicit and accept donations and grants to support the City Network.

3.4.5 Capital Improvements. The City reserves for itself the right to make Capital Improvements to the City Network and Alterations in its sole discretion. The City may allow the Manager to make Capital Improvements or Alterations to the City Network at the Manager's expense pursuant to the procedure set forth in Sections 9.3 and 9.4.

3.4.6 City Network Operation. If, at any time, the City determines that the Manager is not operating the City Network in compliance with this Contract and has terminated this Contract pursuant to Section 2.4, the City shall retain the right to operate the Network and perform any and all functions necessary to continue the operation of the Governmental Program, including directing End User traffic between ISPs as required. In the event of default by any ISP as set forth in an ISP Agreement, the City shall retain the right to direct the Manager to shut off the defaulting ISP's access to the City Network and redirect that ISP's End Users to another ISP to create as minimal an interruption to End User Internet Services as reasonably possible.

ARTICLE IV

OPERATIONS AND MANAGEMENT

4.1 City Responsibilities.

4.1.1 Acquisition, Installation, and Construction. Subject to the condition that the City first determines that the Governmental Program and construction, financing, and operation of the City Network are feasible, the City shall acquire, install, and construct, or cause to be acquired, installed, or constructed, the City Network and take all actions necessary to make the City Network operational for the purposes of this Contract.

4.1.2 Cost Reimbursement. In addition to payment of Manager Compensation pursuant to Section 5.3 herein, the City shall be responsible for operational costs such as maintaining the NOC facility, power, gas, and other utilities realized for operating the City Network, as well as software licensing, hardware, and data archival expenses incurred by the Manager. Any dispute regarding such costs shall follow the process outlined in Section 6.4.

4.1.3 Broadband Commission.

(a) Establishment. The City shall establish a Broadband Commission, the members of which will be appointed pursuant to Willmar City Charter Section 4.01. The Broadband Commission's full authority and duties shall be as set forth in the establishing Ordinance as adopted by the Willmar City Council.

(b) Oversight. The Broadband Commission will have oversight authority pursuant to this Section and Section 7.9 of this Contract. The Broadband Commission shall receive monthly reports containing summaries of complaints from End Users made to the City or the Manager regarding the performance of the Manager, ISPs, and ISP-provided Internet Services on the City Network. The Broadband Commission may direct the Manager to address these complaints with the ISPs to the extent of Manager's authority, up to and including redirecting End User Internet Services from one ISP to another ISP, subject to the provisions of the ISP Agreement and Section 4.2.8(b).

4.1.4 Imposition and Collection of Fees. The City shall establish such enforcement procedures as may be necessary to collect all such fees owed to the City pursuant to this Contract and the ISP Agreements, including Retail Fees, Membership fees, and ISP fees.

4.1.5 Major Repairs. The City shall be responsible for the cost of Major Repairs. The Manager, as the City's technical representative, will coordinate all Major Repairs to ensure service restoration is completed in a timely and cost-effective manner. In the event that another party is responsible for the damage, including but not limited to traffic accidents, construction, and relocations, the Manager will pursue compensation from the responsible party. In the event that repair/replacement costs are not recoverable from a third party, including but not limited to vandalism, Uncontrollable Forces, or inability to identify responsible party, the City will be responsible for non-recovered costs.

4.1.6 IT Systems. The City will be responsible for procuring software licensing necessary for managing the City Network including device monitoring, configuration management, and automated provisioning systems. The City will be responsible for the costs of such items.

4.1.7 Access to City Network. The City will provide the Manager with access to the City Network so that Manager can perform its obligations under this Contract.

4.1.8 Disposition at Termination. After this Contract has expired, in accordance with its terms, unless otherwise agreed to by the Parties, all revenues generated under this Contract shall belong solely to the City. Upon Termination, the City shall continue to own all Network, all Improvements, and all infrastructure related to the operation of the City Network. The Manager shall have no claim to revenue or the previously described infrastructure upon termination. Upon the expiration or Termination of this Contract for any reason, the Manager shall provide the City all documents, contracts, operation manuals, passwords, access codes, and customer data systems necessary for the operation and management of the City Network.

4.2 Manager Responsibilities.

4.2.1 Connection Services.

(a) The Manager shall provide to, and the City shall receive from the Manager, Connection Services sufficient to allow the End Users primarily located within the City benefitting from the Improvements to connect to the City Network.

(b) The Manager will have exclusive use of the City Network for purposes of providing services as described in Exhibit A, including Connection Services, in furtherance of the Governmental Program, except for the rights reserved by the City to such City Network. Third parties may only utilize the Network in partnership with the Manager and/or the City.

(c) The Manager shall provide continuous Connection Services barring only emergency or scheduled downtime, curtailments, and Operating Contingencies.

4.2.2 End User Billing. The Manager shall provide guidance to the City as requested with regard to the initial establishment of, and subsequent evaluation and amendments to, the ISP Fee percentage and Membership Fee to be set forth in the City's Fee Schedule. The Manager will oversee the collection of all fees from ISPs on behalf of the City, including all Retail Fees charged to End Users, Membership Fees, and ISP Fees and assist as required to ensure the City receives all payments the City is obligated to receive under this Contract and the ISP Agreements. The City shall not bill End Users of the City Network directly.

4.2.3 Operations of the City Network. The Manager, as the technical representative of the City shall provide day-to-day operation of the City Network.

4.2.4 Consultant Services. The Manager shall provide services to the City as agreed to and described in the separate Consultant Agreement.

4.2.5 End User Information. The Manager shall provide to the City all End User information, including agreements between each End User and the ISP with which the End User has contracted for Internet Services.

4.2.6 Maintenance and Repair of City Network. Except as otherwise specified for Major Repairs, Manager shall provide the following repair and maintenance services under its Manager Fee.

(a) City Network Repairs. The Manager will be responsible for all repairs, including both Minor Repairs and Major Repairs. The Manager, as the

City's technical representative, will perform the day-to-day operations and coordinate any repairs to ensure service restoration is completed in a timely and cost-effective manner, consistent with industry standards. The City will pay for Major Repairs and materials for all such repairs, including, but not limited to fiber optic cable, conduits, hand holes, and splice cases. For all Major Repairs necessitating the use of contractors to make such repairs, the Manager shall have the obligation to utilize contractors with experience identifying and repairing outages affecting networks in the region similar in nature and in complexity to the City Network.

(b) Notice and Approval of Emergency Repairs. The Manager shall provide notice to the City of any emergency repair for which the City will be financially responsible as set forth below:

- Repair costs estimated between \$1- \$10,000: Immediate notice to the City Administrator or their designee.

- Repair costs estimated between \$10,001- \$50,000: Notice to, and written approval by, the City Administrator.

- Repair costs estimated to be greater than \$50,000: Notice to the City Administrator and approval by City Council. The City Council shall be prepared to approve these requests retroactively depending on the severity, as addressed below.

In addressing emergency repairs required outside of normal business hours, Monday to Friday, the Manager shall follow all notice and approval procedures as set forth above. In the event that an emergency repair is required to address a City Network outage affecting more than 100 End Users or a High Availability Circuit, the Manager shall proceed with the emergency repair, and such repair shall be subject to retroactive approval. Any disputes arising from emergency repairs undertaken pursuant to this Paragraph shall be subject to the process under Section 6.4 of this Contract.

(c) Non-Emergency Major Repairs. For all Major Repairs for which the City will be financially responsible, and which are planned or do not otherwise require an immediate or emergency response, the Manager shall seek authorization from the City pursuant to Section 9.3 before incurring such costs.

(d) Preventative Maintenance. The Manager, as a technical representative of the City, shall provide preventative maintenance to the support system including cabinet, battery backup systems, generator, transfer switches, and air conditioners. The Manager must seek authorization from the City pursuant to Section 9.3 before incurring maintenance and equipment replacement costs for which the Manager would seek reimbursement from the City beyond the Manager Fee.

(e) Field Technician Services. Field Technician Services will be provided by the Manager during the term of this Contract. Such services include Minor Repairs, dispatch, and resolution services. The Manager will have at least one technician on-site in the City between the hours of 7:00 a.m. and 3:30 p.m. on Monday to Friday to perform these services as required under this Contract.

(f) Outages and Notifications. In the event that some portion of the City Network is experiencing an outage affecting the Internet Services being provided to End Users, the Manager shall provide notification to all affected End Users by text message and email, as applicable. Such notification shall include an estimated date and time for the restoration of Internet Services.

(g) Alterations. The Manager shall follow the procedure under Section 9.3 for any alterations or modifications to the City Network or Improvements, or replacement of equipment, that the Manager believes to be necessary but not otherwise determined by the Manager to be provided as Minor Repairs under the Manager Fee.

4.2.7 Utility Locating. The Manager shall provide utility locating services directly or via sub-contractor for the City Network through the duration of this Contract.

4.2.8 Internet Service Providers.

(a) City Network Availability. The Manager will make the City Network available to all of its contracted ISPs. Internet Service Providers will also be governed under a separate ISP Agreement with the City outlining their use of City property and all fees associated with the use of the City Network.

(b) ISP Shut-Off and Continued Service. In the event of default by any ISP subject to an ISP Agreement with the City, which the ISP fails to cure following the notice and opportunity to cure as established in the ISP Agreement, the City may direct the Manager to shut off that ISP's access to the City Network and redirect that ISP's End Users to another ISP to create as minimal an interruption to Internet Services for the End Users as reasonably possible.

(c) Manager as Internet Services Provider. The Manager may provide Internet Services to End Users on a temporary basis to prevent sustained interruptions to Internet Services in the event that any ISP's access to the City Network be revoked pursuant to the ISP Agreement and the above Paragraph 4.2.8(b). This provision shall not be construed to entitle the Manager to provide Internet Services to End Users on a permanent basis under an ISP Agreement.

4.2.9 Product Catalog. The ISPs shall provide a product catalog setting forth all plans and pricing offered by the ISP to End Users receiving services from the City Network in furtherance of the Governmental Program, including charges for all optional services to which each End User may choose to receive from an ISP. The Manager, in conjunction with the City, shall review the product catalog and such product catalog shall be incorporated into the ISP Agreement.

4.2.10 Network Operations Center (NOC) Services. The Manager agrees to provide monitoring of the City Network on a 24/7 basis from the City's NOC. This includes device monitoring, outage notifications, configuration of devices, diagnostics, repair dispatch, and other services as generally provided by the NOC.

4.2.11 Customer Service. The Manager shall staff a customer service contact center on a 24/7 basis and shall maintain a Willmar-based phone number so that End Users can contact the customer service contact center for information and to report other miscellaneous issues End Users may encounter during their use of the City Network and the operation of the Governmental Program by Manager. The Manager shall provide monthly reports of End User complaints to the Broadband Commission pursuant to Section 4.1.3(b).

4.2.12 Marketing Services. The Manager shall perform community outreach and marketing services pursuant to the Outreach and Education Contract to garner public support for the Governmental Program prior to the construction of the City Network so that the requisite number of potential End Users in the City opt into participating in the Governmental Program.

4.2.13 Staffing. The Manager shall employ sufficient persons of sufficient expertise, training, and qualification necessary to carry out the Governmental Program safely, effectively, and efficiently, and manage, operate, and maintain the City Network.

4.2.14 Geographic Information System (GIS). The Manager will be responsible for maintaining GIS data for the City Network, including any software licensing, hardware, and data archival expenses. The City will be responsible for the costs of such items. The Manager shall make available to the City and its engineer(s) the GIS data at all times.

4.2.15 Technical Support.

(a) The Manager is responsible for providing technical support for the connection from the nearest NOC or cross connection point to the demarcation point at each home or business.

(b) The Manager does not provide technical support for customer routers, in-home wiring, computers, or in-home Wi-Fi. Such services are expected to be handled by the contract ISP based on their terms of service with each End User. For outages, technical support, issues regarding the costs of their Internet Services, End Users are generally expected to call their contracted ISP. In the event an ISP determines the issue is related to problems with the City Network and not the ISP or in-home equipment, then the ISP may refer the issue to the Manager. If the City receives calls from the public, the City shall report all incidents to the Manager for technical resolution.

4.2.16 Post-Construction Drop Installations. If an End User of the City Network fails or elects not to opt-in to the Governmental Program during the phase of construction of the City Network which would have allowed that End User to receive complimentary installation of all required fiber network equipment from their property to the Mainline System, the City may later allow such End User to request access to the City Network through post-construction drop installations for a fee in an amount to-be-determined. The Manager will provide technical assistance to the City when the City or the City's designated agent performs such post-construction drop installations.

4.2.17 Compliance with Minnesota Statutes, Chapter 429.021. In carrying out the Manager's responsibilities under this Contract, the Manager agrees that it will not take action that would result in the City:

(a) discriminating in favor of the City's own communications facilities by granting the City more favorable or less burdensome terms and conditions than a nonmunicipal service provider with respect to: (A) access and use of public rights-of-way; (B) access and use of municipally owned or controlled conduit, towers, and utility poles; and (C) permitting fees charged to access municipally owned and managed facilities;

(b) failing to maintain separation between the City's role as a regulator over firms that offer services in competition with the services offered by the City over the City's communications service facilities, and the City's role as a competitive provider of services over the municipality's communications service facilities; or

(c) sharing inside information between employees or contractors responsible for executing the City's role as a regulator over firms that offer communications services in competition with the communication services offered by the City, and employees or contractors responsible for executing the City's role as a competitive communications services provider.

4.3 Standard of Care. Services provided by Manager under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the broadband or fiber optic communications network profession or industry in operating fiber optic communications networks. The Manager shall be liable to the fullest extent permitted under applicable law, without limitation, for any injuries, loss, or damages proximately caused by Manager's breach of this standard of care. The Manager shall put forth reasonable efforts to complete their respective duties in a timely manner. The Manager shall not be responsible for delays caused by factors beyond their control or that could not be reasonably foreseen at the time of execution of this Contract. The Manager shall each be responsible for costs, delays or damages arising from unreasonable delays in their performance of their respective duties.

ARTICLE V

FINANCIAL PROVISIONS

5.1 Revenue Distribution and Fees.

5.1.1 Retail Fees. The Internet Service Providers (the "ISPs") will collect Retail fees from each End User based upon the amount and the types of products and services delivered to the End User in accordance with the ISPs' product catalog. These Retail fees shall be collected by the ISPs.

5.1.2 ISP Fees. The ISP Fee shall be paid monthly to the City by the ISPs and shall be calculated as a percentage of the Retail Fee collected from each End User in the preceding month. The percentage amount corresponding to the ISP Fee shall be established in the City's Fee Schedule and updated from time to time.

5.1.3 Membership Fees. The ISPs will pay an annual Membership Fee to the City for the ability to access the NOC and provide services to End Users through the City Network. This Membership Fee shall be established in the City's Fee Schedule, which shall be amended from time to time.

5.1.4 Collection and Distribution of Fees. The City and the Manager will enter into ISP Agreements with the ISPs to charge and collect the fees outlined in Sections 5.1.1 to 5.1.3.

5.2 Internet Service and Product Pricing.

(1) The Retail Fee schedule shall be set forth in each ISPs' product catalog . The Manager is not responsible for changes in the retail pricing from ISPs. Retail Fee pricing is subject to change at any time in accordance with the ISP Agreement.

5.3 Manager Compensation.

5.3.1 The City agrees to compensate the Manager, a private entity, for its role in carrying out the Governmental Program for the benefit of the public, as detailed in Exhibit E, which is attached hereto and incorporated herein by reference.

5.3.2 The City will not be obligated to compensate the Manager pursuant to this Section and Exhibit E until one or more End Users is receiving Internet Services using the City Network.

5.4 City's Payment Obligation. The City's payment obligations hereunder to the Manager for technical representation, day-to-day operations of the City Network, Connection Services, and other services hereunder shall be conditioned upon the following:

(1) the City's determination that the Governmental Program and construction of the City Network is feasible;

(2) that Manager has entered into agreements with at least 1 ISP to operate on the City Network and will use all reasonable efforts to enter into an agreement with at least one (1) additional ISP;

(3) at least 100 potential End Users have opted into participating in the Governmental Program on or before March 31, 2025; and

(4) the City determining, in its sole discretion on or about March 31, 2025 , that operating the City Network and Governmental Program is feasible and financing the cost of the City Network is feasible based on (i) final project cost estimates based on final City Network Construction Drawings and Specifications and (ii) projected net revenues of the City Network in an amount sufficient to cover debt service on any financing of the City to pay the cost of the City Network

ARTICLE VI
Defaults and Remedies

6.1 Manager Default. If the Manager shall default in the payment of any sum required to be paid by the Manager under this Contract and such default shall continue for fifteen (15) days after written notice to the Manager, or if the Manager shall default in the observance or performance of any other covenants or conditions in this Contract, which the Manager is required to observe or perform, and such default shall continue for thirty (30) days after written notice to the Manager, or if a default involves a hazardous condition and is not cured by the Manager immediately upon written notice to the Manager, or if the interest of the Manager in this Contract shall be levied upon under execution or other legal process, or if any voluntary petition in bankruptcy or for corporate reorganization or any similar relief shall be filed by the Manager, or if any involuntary petition in bankruptcy shall be filed against the Manager under any federal or state bankruptcy or insolvency act and shall not have been dismissed within thirty (30) days following the filing thereof, or if a receiver shall be appointed for the Manager or any of the property of the Manager by any court and such receiver shall not be dismissed within thirty (30) days from the date of appointment, or if the Manager shall make an assignment for the benefit of creditors, or if the Manager shall abandon or vacate the City Network or Improvements, then the City may treat the occurrence of any one or more of the foregoing events as a breach of this Contract and thereupon at its option may, without notice or demand of any kind to the Manager or any other person, terminate this Contract and immediately resume exclusive possession, maintenance, and operation of the City Network and Improvements, in addition to all other rights and remedies provided at law or in equity. Notwithstanding the notice and opportunity to cure, City can step in to cure any non-performance by the Manager that the City deems is affecting revenues of the City Network.

6.2 City Default. If the City shall default in the observance or performance of any covenants, obligations or conditions in this Contract, which the City is required to observe or perform, and such default shall continue for thirty (30) days after written notice to the City, then the Manager may treat the occurrence of any one or more of the foregoing events as a breach of this Contract and thereupon at its option may terminate this Contract, in addition to all other rights and remedies provided at law or in equity.

6.3 Successive Proceedings. The Manager or its designee shall have the right from time to time to begin and maintain successive proceedings against the City for the recovery of all City's payment obligations required to be made under this Contract by the City and to recover the same upon the liability of the City herein provided. Nothing herein contained shall be deemed to require the Manager to defer commencement of any such proceeding until the end of the term of this Contract.

6.4 Dispute Resolution; Mediation. The Broadband Commission will be the first step in Dispute Resolution. If the dispute cannot be resolved within the Broadband Commission, the parties will agree to Mediation to resolve the matter in dispute and shall submit unresolved claims and disputes to Mediation utilizing the Minnesota District Court Rule 114 Roster. Both parties will agree on a Mediator and equally share the cost of Mediation. Each party will work in good faith and do everything possible in the Dispute Resolution process for a period of thirty (30) days from the date of notice prior to proceeding to formal dispute resolution or exercising their rights under law.

6.5 Remedies. Manager or its designee may take whatever action at law or in equity may appear necessary or desirable to collect the amounts payable by the City hereunder, then due and thereafter to be come due, or to enforce performance and observance of any obligation, agreement or covenant of the City under the provisions of this Contract. Such action may include but is not limited to, suspension or termination of services to the City pursuant to Section 6.2. The City may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Manager under the provisions of this Contract. Such action may include but is not limited to, suspension or termination of this Contract pursuant to Section 6.1.

6.6 No Exclusive Remedy. No right or remedy herein conferred upon or reserved to the Manager or its designee or the City is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing. The failure of the Manager or its designee or the City to insist at any time upon the strict observance or performance by the other parties to this Contract of any of the provisions of this Contract, or to exercise any right or remedy provided for in this Contract, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof for the future. Receipt by the Manager or its designee of any payments required to be made under this Contract with knowledge of the breach of any provisions of this Contract, shall not be deemed a waiver of such breach. In addition to all other remedies provided in this Contract, the Manager or its designee or the City shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the provisions of this Contract, or to a decree concerning performance of any of the provisions of this Contract, or to any other remedy legally allowed. If any proceeding shall be brought for the enforcement of any right or remedy provided for in this Contract in which it shall be determined that the City shall have failed and continued to fail to make a payment of any sum due under this Contract at the time of commencement thereof, the City shall pay the Manager or its designee all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees and expenses. In like manner, if it should become necessary for the City to bring legal proceedings against the Manager or its designee to enforce any right or remedy provided for in this Contract given it hereunder, the City shall have the right, if it is successful in such proceedings, to the payment by the Manager of all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees, and expenses.

ARTICLE VII

GOVERNMENTAL PROGRAM MANAGEMENT AND OVERSIGHT

7.1 Provision of Services. At all times during the Term of this Contract, including any Renewal Term, the Manager shall be authorized to and responsible for carrying out the Governmental Program by managing, operating, and maintaining the City Network for the benefit of the residents of the City in accordance with this Contract. The Manager shall provide these services in a timely manner, in according with the standards and norms of the broadband or fiber-optic communications network profession, and in accordance with the Initial Report and Annual Budgets submitted to the City pursuant to Sections 7.2 and 7.3 below. The Manager shall provide competent and adequate instruction, training, and supervision of all the services provided by the Manager or those providing such services on the Manager's behalf in carrying out the Governmental Program.

7.2 Initial Report. The Manager shall provide the City with an initial program evaluation report summarizing the Manager's planned use of and activities with respect to the City Network in furtherance of the Governmental Program, including all projected revenues and expenses for each year of the Term and such other information as may reasonably be requested by the City, prior to the Operational Date.

7.3 Annual Budgets. The Manager shall provide to the Broadband Commission annual proposed budgets for their management and operation of the City Network in furtherance of the Governmental Program on or before July 1st, preceding any year during the Term or any Renewal Term. Following review and comment by the Broadband Commission, the annual proposed budget will be provided to the City. The annual proposed budget shall list all projected revenues and expenses by category, with such detail as the City may reasonably require. The annual proposed budget shall reflect all revenues projected to be received with respect to the City Network, specifically including all revenues to be collected and retained by the Manager pursuant to this Contract. If the City objects in writing to the proposed annual budget or any part thereof, the Manager shall respond promptly to each such objection and work with the City to resolve any differences in a manner reasonably acceptable to all Parties. A final annual budget will be submitted by the Manager to the City prior to December 1st each year for the approval of the City's governing body. The Manager shall assume responsibility for the management and operation of the City Network as requested by the City as provided in this Contract, and shall not incur expenses in excess of the approved annual budget, except as the approved annual budget may be revised.

7.4 Quarterly Financial Reports. The Manager shall provide to the City financial statements detailing the Manager's financial performance and the Manager's use of the City Network to carry out the Governmental Program that include at least the following information:

(a) Detailed statement of the total number of End Users currently served;

(b) Detailed statement of the total amount of expenses incurred and paid by the Manager under this Contract for the preceding quarter;

(c) Detailed statement of the revenues and revenue sources for the preceding quarter under this Contract; and

(d) Detailed statement of the income for the quarter related to this Contract.

7.5 Quarterly Status Reports. The Manager shall deliver to the City on a quarterly basis during the Term or any Renewal Term, a report detailing the Manager's use of and activities related to the City Network in furtherance of the Governmental Program, together with true and correct financial statements of the Manager's financial condition and operations prepared according to generally accepted accounting principles for similar facilities for the preceding calendar year and supporting documentation reasonably requested by the City, including but not limited to:

(a) names and addresses of the Manager's Board of Directors;

(b) documentation that the Manager continues to be organized as corporation, active and in good standing under the laws of Minnesota and registered with the Minnesota Secretary of State;

(c) restrictions, if any, relating to persons eligible to benefit from Governmental Program programming operated, managed or produced by the Manager;

(d) names and addresses of all of the Manager's respective employees providing services related to the Governmental Program and/or City Network;

(e) number of End Users to whom internet services were provided by the Manager through the ISPs pursuant to the Governmental Program for the preceding calendar year, and to the extent possible, the addresses of the End Users;

(f) report on the physical condition of the City Network and an itemization of needed repairs and improvements;

(g) statement of fees and charges applicable to the Connections Services provided by the Manager in furtherance of the Governmental Program; and

(h) explanation of any Connection Services sub-contracted by the Manager in furtherance of the Governmental Program.

7.6 Determination of Continued Governmental Use. The Manager shall provide any additional records or other information reasonably requested by the City in order to allow the City to determine that the Manager is using and conducting their activities with respect to the City Network in furtherance of the Governmental Program and for no other purpose. The City, Broadband Commission, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Manager and involve transactions relating to this Contract

7.7 Audit. The City may audit the financial statements delivered by the Manager to City pursuant to this Contract, either on an independent basis or in conjunction with the City's annual audit. As determined by the City in its reasonable discretion, and upon written notice to the Manager of such determination, the City will retain a reputable auditing firm, acceptable to the City, to conduct an audit of the Manager's financial statements related to the City Network at the City's expense. The audit report shall include the following information:

(a) the financial condition of the Manager, and their ability to perform their obligations under this Contract;

(b) the status of all Manager services related to the Governmental Program;

(c) the status of all subcontracts to which the Manger is a party relative to the Governmental Program; and

(d) such other matters relating to the Manager's revenues and expenses relative to the Governmental Program, which may affect the interests of the City, and such other information as the City may require.

7.8 Notice to City. The Manager shall inform the City of unbudgeted single transactions or circumstances of which the Manager has knowledge having or which may have a material effect on the Governmental Program or the operation of the City Network. Such notice by the Manager to the City shall be in writing and provided to the City within thirty (30) days of the Manager's determination that a material issue or circumstance exists that requires disclosure to the City. For purposes of this Contract, an issue having a "material effect on the Governmental Program or the operation of the City Network" includes matters which will have a cost impact of Five Thousand Dollars ($5,000.00) or more.

7.9 Broadband Commission Oversight. The Manger shall provide all the reports and budgets under this Article, as well as reports detailing End User complaints received by the Manager, to the Broadband Commission, who will provide the same to the City Council. The Broadband Commission shall have the authority to request additional records or other information it deems necessary and related to the operation of the Governmental Program pursuant to Sections 7.7 and 14.21.

7.10 Compliance as to Bonds.

(a) If interest on any bonds issued by the City for the Project is intended to be excludable from gross income for federal income tax purposes ("Tax-Exempt Bonds") and if the City determines, based upon the written notice of nationally recognized bond counsel, that any action under this Contract creates a significant risk that interest on any Tax-

Exempt Bonds will not be excludable from gross income for federal income tax purposes, the Parties shall negotiate in good faith to agree on alternative action to avoid such a result. In no event shall the foregoing agreement require any Party to amend or modify any material term of this Contract.

(b) The Manager irrevocably waives any claim for depreciation or investment credit with respect to the City Network.

ARTICLE VIII

SUBCONTRACTING AND ASSIGNMENT

8.1 Assignment. The Manager shall not assign their responsibilities under this Contract to any third party without first obtaining the written consent of the City to such assignment.

8.2 Subcontracting. The City acknowledges that as a part of its management and operating responsibilities, the Manager is required to contract with ISPs or third-party designees for purposes of providing Connection Services. Such contracting and provision of products and services shall be in accordance with the terms of this Contract.

8.3 Third-Party Beneficiary. The City shall be a third-party beneficiary of any assignment, license, or subcontract entered into by the Manager with respect to the Governmental Program and/or the City Network.

8.4 Subordination of Third-Party Contracts. Any assignment, license or subcontract entered into by the Manager with respect to the Governmental Program or the City Network shall be subject to the terms of this Contract. This Contract shall prevail.

ARTICLE IX

ALTERATIONS AND CAPITAL IMPROVEMENTS

9.1 No Representations. The City has made no promise to alter, remodel, repair or improve the City Network after the completion of the City Network as depicted and described in the City Network Construction Drawings and Specifications, except as provided under Sections 4.1.5 and 4.2, and has made no representation of the condition of the City Network or the suitability of the City Network for the purpose stated herein other than what is contained in this Contract.

9.2 Capital Improvements. The City shall have the right to make Capital Improvements to the City Network pursuant to Section 3.4.5, provided that the City will not unreasonably interfere with the use and operation of the City Network or the Improvements in performing any such Capital Improvement and the provisions of this Contract.

9.3 Alterations. The Manager shall not make any Alterations to the City Network for which the Manager expects reimbursement from the City without the written consent of the City.

Consent shall be obtained by submitting a written description to the City of the proposed Alteration describing the conditions which necessitated such Alteration and including any information that may be required by the City. The City may approve, disapprove, require more information in its sole judgment and discretion. The City's consent to the proposed Alteration shall be provided in writing. Nothing herein shall limit the Manager's ability to make temporary or other minor alterations required for the Manager's ongoing maintenance obligations that will not alter the City Network in a permanent way or affect the ongoing operation of the Governmental Program.

9.4 Capital Improvements by Manager. The Manager shall not make any Capital Improvements to the City Network without the written consent of the City. Consent shall be obtained by submitting a written description to the City of the proposed Capital Improvements, including its location, size, proposed use, funding source, and any other information that may be required by the City. The City may approve, disapprove, require more information, or require certain modifications to the proposed improvements in its sole judgment and discretion. The Manager's final written proposal including a clear indication of the City's assent and signed by the City shall constitute written consent of the City. Unless otherwise agreed by both Parties, approved Capital Improvements under this Section shall be at the sole expense of the Manager. Nothing herein shall limit the Manager's ability to make temporary or other minor alterations required for the Manager's ongoing maintenance obligations that will not alter the City Network in a permanent way or affect the ongoing operation of the Governmental Program.

9.5 Insurance and Security. The Manager shall require appropriate insurance, faithful performance bonds, and labor and material bonds for all contractors who work on the City Network, and shall allow no mechanic's liens to be incurred or filed against the City Network or Improvements.

9.6 Lien Waivers. The Manager shall provide lien waivers to the City from any contractors or subcontractors furnishing material, service or labor to any alteration or improvement, which the City may, in its discretion, require in advance of approving the alteration or improvement.

9.7 Protection from Liens. The Manager shall promptly pay for all Alterations and Capital Improvements that are requested by the Manager and approved by the City under this Contract, and shall promptly pay all laborers employed and all subcontractors furnishing material or services to the Manager for such Alterations and Capital Improvements. The Manager hereby covenants and agrees that the Manager will not permit or allow any mechanics' or materialmen's liens to be placed on the City's interest in the City Network or Improvements during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so filed against the City's interest, the Manager shall take all steps necessary to remove it within 120 days of its being filed. The Manager may contest any such mechanic's liens and prosecute all proceedings for the purpose of such contest pursuant to Minn. Stat. § 514.01, *et seq.* provided the Manager first posts a surety bond, in favor of and insuring the City, in an amount equal to 125% of the amount of any such lien, or otherwise protect the City from foreclosure of the City Network or Improvements.

9.8 Improvements Property of the City. Any Capital Improvements or Alterations made to the City Network shall become a part thereof and remain the property of the City and be surrendered to the City without compensation to the Manager on the Expiration Date.

ARTICLE X

REPRESENTATIONS AND WARRANTIES

10.1 Representations and Warranties of the City.

(a) The City represents and warrants that the City is a municipal corporation organized and existing under and by virtue of and pursuant to the laws of the State of Minnesota and has the power to enter into this Contract and carry out its obligation hereunder.

(b) On the conditions that the City determines the City Network and the Governmental Program are feasible and it is able to secure sufficient funding to fund the City Network, the City shall undertake reasonable efforts to construct the City Network in accordance with the City Network Construction Drawings and Specifications.

10.2 Representations and Warranties of the Manager.

(a) The Manager represents and warrants that the Manager is organized as a limited liability company, active and in good standing under the laws of Minnesota, and registered with the Minnesota Secretary of State, and has the power and authority to enter into this Contract and to perform its obligations hereunder and is not in violation of the laws of the State of Minnesota or any other State.

(b) The Manager shall maintain its status as a limited liability company, active and in good standing under the laws of Minnesota, and registered with the Minnesota Secretary of State, at all times from and after the Effective Date while the Term or any Renewal Term is in effect.

(c) Neither the execution and delivery of this Contract, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Contract is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Manager is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(d) The Manager will cooperate with the City with respect to any litigation commenced with respect to the City Network or Governmental Program, so long as the Manager is not an adverse party to such litigation.

(e) Whenever any Event of Default occurs and if the City shall employ attorneys or incur other expenses for the enforcement of performance or observance of any obligation or agreement on the part of the Manager under this Contract, and the City prevails in such action, the Manager agrees that it shall, within thirty (30) business days of written demand by the City, pay to the City the reasonable fees of such attorneys and such other expenses so incurred by the City.

(f) The Manager shall promptly advise the City in writing of all litigation or claims affecting any part of the City Network or Governmental Program and all written complaints and charges made by any governmental authority materially affecting the City Network or Governmental Program or materially affecting the Manager or its activities.

(g) The Manager has the resources and capability to satisfy its obligations under this Contract to operate and manage the City Network and provide Connection Services, including all services described in Exhibit A, as required herein.

(h) The Manager shall not create any lien, encumbrance, easement, license, right-of-way, covenant, condition or restriction that would encumber the title to the City Network without the prior written approval of the City, to be granted or withheld in its sole discretion.

(i) The Manager acknowledges the City's contributions to the City Network and Governmental Program and to maintaining the City Network during the Term and any Renewal Term as otherwise specified in this Contract, and further warrants that the Manager will not seek subsidies or other financial assistance from the City to cover any expenses made the responsibility of the Manager hereunder except as otherwise specified in this contract.

ARTICLE XI

INDEMNIFICATION

11.1 Indemnification of the City. The Manager shall indemnify, protect, save, hold harmless and insure the City, and its respective officers, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the Manager or its agents, employees, contractors or subcontractors with respect to the Manager's performance of its obligations under this Contract or its use of the City Network, or that of the Manager's employees, members, board, officers, agents, volunteers, clients and invitees. The Manager shall defend the City against the foregoing, or litigation in connection with the foregoing, at the Manager's expense, with counsel reasonably acceptable to the City. The City, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the City. All indemnification obligations shall survive termination, expiration or cancellation of this Contract.

11.2 Indemnification of the Manager. The City shall indemnify, protect, save, hold harmless and insure the Manager, and its respective officers, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by the City or its agents, employees, contractors or subcontractors with respect to the City's performance of its obligations under this Contract or its construction of or use of the City Network, or that of City's employees, members, board, officers, agents, volunteers, clients and invitees. The City shall defend the Manager against the foregoing, or litigation in connection with the foregoing, at the City's expense, with counsel reasonably acceptable to the Manager. The manager, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the Manager. All indemnification obligations shall survive termination, expiration or cancellation of this Contract. Nothing in this Section will be construed to limit or affect any limitations on liability of the City under State or federal law, including without limitation Minnesota Statutes Sections 466.04 and 604.02.

11.3 Assumption of Risk. The Manager knows, understands, and acknowledges the risks and hazards associated with using the City Network for the purposes stated herein and hereby assumes any and all risks and hazards associated therewith. Except for the City's negligence, willful acts, and indemnification obligations set forth above, the Manager hereby irrevocably waives any and all claims against the City or any of its officials, employees or agents for any bodily injury (including death), loss or property damage incurred by the Manager as a result of the Manager's use of the City Network, and hereby irrevocably releases and discharges the City and any of its officials, employees or agents from any and all claims of liability.

11.4 No Third-Party Right of Action. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third-party against the City or the Manager. The Manager's services under this Contract are being performed solely for the City's benefit, and no other entity shall have any claim against the Manager because of this Contract, or the performance or nonperformance of services provided hereunder.

ARTICLE XII

COMPLIANCE WITH LAWS, ORDINANCES, AND REGULATIONS

12.1 Throughout the Term of this Contract, the Manager, at its sole cost and expense, shall promptly comply with all present and future laws, ordinances, orders, rules, opinions, directives, regulations, and requirements of all federal, state, county, and other local governments.

12.2 The Manager shall likewise observe and comply with, or shall cause to be observed and complied with, all the requirements of all policies of comprehensive general liability, fire and other insurance at any time in force with respect to the City Network.

ARTICLE XIII

INSURANCE

13.1 City's Required Insurance. The City shall maintain property insurance on the City Network. The City shall name the Manager as an additional insured.

13.2 Manager's Required Insurance. The Manager shall maintain, at the Manager's expense, insurance on the Manager's personal property associated with the City Network, and shall assume the risk of loss to such property. The Manager shall further maintain, at the Manager's expense, the following insurance policies in the listed amounts:

Worker's Compensation	Statutory Limits
Professional Liability/Errors and Omissions Policy	$2,000,000 per occurrence $3,000,000 aggregate
Employer's Liability	$500,000 each accident $500,000 disease policy limit $500,000 disease each employee
Comprehensive General Liability	$2,000,000 property damage and bodily injury per occurrence $3,000,000 general aggregate $3,000,000 Products – Completed Operations Aggregate $2,000,000 fire legal liability each occurrence
Comprehensive Automobile Liability	$1,000,000 combined single limit each accident (shall include coverage for all owned, hired and non-owed vehicles)
Umbrella or Excess Liability	$1,000,000

All policies listed above shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable) and shall apply on a "per project" basis.

With the exception of the Worker's Compensation and Professional Liability/Errors and Omissions policies, all policies listed above shall insure the defense and indemnity obligations assumed by the Manager under this Contract and shall name the City as an additional insured under the policy.

All policies listed above shall contain a provision that coverages afforded thereunder shall not be canceled or non-renewed, nor shall coverage limits be reduced by endorsement, without thirty (30) days prior written notice to the City.

13.3 Certificates of Insurance. True, accurate, and current certificates of insurance, showing evidence of the required insurance coverages, shall be provided to the City by the Manager prior to the Effective Date of this Contract and will be attached hereto as Exhibit B.

13.4 Effect of Failure to Provide Insurance. If Manager fails to provide the specified insurance or to require the specified insurance from subcontractors, as applicable, then Manager will defend, indemnify and hold harmless the City and the City's officials, agents, and employees from any loss, claim, liability, and expense (including reasonable attorney's fees and expenses of litigation) to the extent necessary to afford the same protection as would have been provided by the specified insurance. The stated indemnity continues until all applicable statutes of limitation have run.

If a claim arises within the scope of the stated indemnity, the City may require the Manager to:

a. Furnish and pay for a surety bond, satisfactory to the City, guaranteeing performance of the indemnity obligation; or

b. Furnish a written acceptance of tender of defense and indemnity from the Manager's insurance company.

Manager will take the action required by the City within fifteen (15) days of receiving notice from the City.

Notwithstanding the foregoing, the City reserves the right to immediately terminate this Contract pursuant to Article VI in the event that insurance requirements are not maintained or required as provided herein during the term of this Contract.

ARTICLE XIV

GENERAL PROVISIONS

14.1 Voluntary and Knowing Action. The Parties, by executing this Contract, state that they have carefully read this Contract and understand fully the contents thereof; that in executing this Contract they voluntarily accept all terms described in this Contract without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

14.2 Acquisition and Construction of the Improvements. The City represents that it will acquire or cause to be acquired all permits, licenses, rights and privileges, structures, equipment, and facilities with respect to the acquisition and construction of the Improvements necessary for the performance by the Manager of its obligations under this Contract. The Manager shall maintain and defend such permits, licenses, and rights and privileges and shall not voluntarily permit any change therein that would result in impairment of the performance by the Manager of its obligation under this Contract.

14.3 Relationship of Parties. With respect to the Manager's management and operating responsibilities under this Contract, the Manager at all times and for all purposes hereunder, shall be an independent contractor and is not an employee of the City for any purpose. No statement contained in this Contract shall be construed so as to find the Manager to be an employee of the City, and the Manager shall not be entitled to any of the rights, privileges, or benefits of employees of the City, including but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

The Manager shall comply with the applicable provisions of all Federal and State tax laws.

The Manager shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein.

The Manager is responsible for hiring sufficient workers to perform the services/duties required by this Contract, withholding their taxes and paying all other employment tax obligations on their behalf.

The authority of the Manager with respect to the City Network shall be limited to those matters which are specifically addressed in this Contract.

14.4 Risk of Loss. Each Party is solely responsible for the risk of loss of, or damage to, equipment of that Party (regardless of where located), unless the loss or damage results from the negligence or fault of the other Party.

14.5 Several Obligations. Except where specifically stated in this Contract to be otherwise, the duties, obligations, and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Contract shall ever be construed to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Contract and shall not be liable for any obligation of the other.

14.6 Liability Dedication. Nothing in this Contract shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a party to this Contact.

14.7 Relationship to Other Instruments. It is recognized that the Manager must comply with all licenses, permits and regulatory approvals, if any, necessary for the operation of the City Network, and it is, therefore, agreed that this Contract is made subject to the terms and provisions of such licenses, permits and regulatory approvals, except that the City shall not be bound by any term or provision of any license, permit, or regulatory approval, which may contradict or vary the terms hereof unless it expressly consents in writing to be so bound.

14.8 Liabilities. The City, its officers, designees, and employees, or any of them, shall not be liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from the operation by the Manager of the City Network. The Manager, its officers, designees, and employees, or any of them, shall not be liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from the performance by the City under this Contract.

14.9 No Waiver. Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Contract or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Contract. Any express waiver of a term of this Contract shall not be binding and effective unless made in writing and properly executed by the waiving Party.

14.10 Furnishing Service to Others. The Manager, by entering into this Contract, does not hold itself out to provide the Improvements or similar service to any other person or entity within the boundaries of the City.

14.11 Uncontrollable Forces. The Parties shall each be excused from performance under this Contract while and to the extent that either of them are unable to perform, if prevented from performing such obligation by reason of an Uncontrollable Force. In the event either Party is rendered unable wholly or in part by force majeure to carry out its obligations under this Contract then the Party affected by force majeure shall give written notice with explanation to the other party immediately. Any portion of the Manager Compensation owed for the period the Uncontrollable Force should prevent Manager from performing its obligations under this agreement shall be abated in its entirety. If a Party is rendered unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such inability with all reasonable dispatch and shall keep the other Parties fully informed of changes and conditions as far in advance as possible.

14.12 Interest by City Officials. No elected or appointed official, officer, or employee of the City or the City shall during his or her tenure or employment and for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

14.13 Entire Agreement. This Contract constitutes the entire agreement among the Parties with respect to the subject matter hereof. All prior understandings, letters of intent, discussions and agreements are merged in the governing terms of this Contract, which is a complete and final written expression of the intent of the Parties. Every warranty or representation binding upon the City is set forth in this Contract. The City makes no further warranties or representations and the Manager has not relied on any other warranties or representations, express or implied, relative to the condition of the City Network, the Governmental Program, or the terms of this Contract. In the event of a conflict or inconsistency between the terms of this Contract and those of any other agreement between the Parties, the terms of this Contract shall govern. No change, variation, termination, or attempted waiver of any of the provisions of this Contract shall be binding on the Parties unless executed in writing by the other Party. This Contract shall not be modified, supplemented, or otherwise affected by course of dealing.

14.14 Modification/Amendment. Any alterations, variations, modifications, amendments or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing, and signed by an authorized representative of the City and the Manager and approved by the Commissioner.

14.15 Renegotiation. This Contract, including Manager compensation as contained in Exhibit E, is subject to review and renegotiation twelve (12) months after the Operational Date at the request of either Party upon ninety (90) days written notice to the other Party. In the event the Parties review this Contract in accordance with the preceding sentence and are unable to reach an agreement on an amendment to this Contract, then this Contract and the provision(s) sought for amendment upon which agreement has not been mutually reached shall remain in effect.

14.16 Notice. Any notice, demand, or request provided for in this Contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

To Manager:

Hometown Fiber
18457 Gladstone Blvd N
Maple Grove, MN 55311
Attn: President

To City:

City of Willmar
333 6th St SW
Willmar, MN 56201
Attn: City Administrator

14.17 Third-Party Beneficiaries. The terms and provisions of this Contract shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns, and is made for their benefit. No other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third-party beneficiary or otherwise.

14.18 Governing Law. This Contract shall be interpreted, governed by, and construed under the laws of the State of Minnesota.

14.19 Nondiscrimination. Manager shall not discriminate against any employee, applicant for employment, or user or participant in the Governmental Program. Manager and its employees and agents shall not discriminate because of race, religion, color, creed, age, disability, sex, national origin, sexual orientation, or status with regard to public assistance, or as otherwise prohibited by state or federal law, against any person by refusing to furnish such person any service or privilege offered to or enjoyed by the general public, nor shall Manager or its employees and agents publicize the facilities provided under this Contract in any manner that would directly or inferentially reflect on the acceptability of the patronage of any person because of race, religion, color, creed, age, disability, sex, national origin, sexual orientation, status with regard to public assistance, or other protected status as described in state or federal law. The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Contract as if fully set forth herein.

14.20 Data Practices. The parties acknowledge that this Contract is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq*.

14.21 Records—Availability and Retention. Pursuant to Minn. Stat. § 16C.05, subd. 5, the Manager agrees that the City, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Party and involve transactions relating to this Contract. The Manager agrees to maintain these records for a period of six years from the Expiration Date.

14.22 Authorized Signatories. The Parties each represent and warrant to the other that (1) the persons signing this Contract are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Contract against it; each Party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

14.23 Execution in Counterparts. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The signature of any Party to the counterpart shall be deemed a signature to the Contract, and may be appended to, any other counterpart. Facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing Party.

14.24 Severability. If any provision of this Contract shall be held or be deemed to be or shall, in fact, be illegal, inoperative, or unenforceable, the same shall not affect any other provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatsoever.

14.25 Headings, Captions and Recitals. Headings and captions contained in this Contract are for convenience only and are not intended to alter any of the provisions of this Contract and shall not be used for the interpretation of the validity of the agreement or any provision hereof. The recitals set forth at the beginning of this Contract are a part of this Contract.

14.26 Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of the City or the Manager arising prior to the expiration of this Contract (whether by completion or earlier termination), shall survive such expiration.

14.27 Exhibits. The exhibits attached to this Contract are considered an integral part of it as if fully set forth within it.

[Signature pages to follow]

IN WITNESS WHEREOF, the PARTIES have hereunto executed this document the day and year first above written.

CITY OF WILLMAR

By: ____ Date:___________________________
Doug Reese, Its Mayor

By: ____ Date:___________________________
Leslie Valiant, Its City Administrator

HOMETOWN FIBER, LLC

By: ____ Date:___________________________
(Signature)
Title:_______________________________________
Print Name:__________________________________

City of Willmar
Fiber Use Agreement
Exhibit A: Scope of Work

Submitted To

Kyle Box
City Operations Director
City of Willmar

Date

March 06, 2024

Version

V0.R1

Submitted By

Kyle Moorhead
President
Hometown Fiber

Hometown Fiber
18457 Gladstone Boulevard North | Maple Grove, Minnesota 55311
763.299.9500 | yourhometownfiber.com

Scope of Work

Contract Effective Date

This contract will go into effect upon the **start of services for the first user of the fiber optic network**. Phase 1 turn-ups are anticipated as soon as Late Summer/Fall of 2024.

Staffing Levels

The City of Willmar has requested Hometown Fiber staff a minimum of one full-time person who will report to the Network Operation Center during normal business hours as recognized by City of Willmar administrative offices. Primary responsibilities will be to operate the Network Operation Center and Outside Plant Fiber Optic Network.

Fiber Optic Tools

Hometown Fiber will equip the Willmar dedicated technician with the following:

- High visibility safety vests/clothing
- Road safety supplies such as road cones, utility signs
- Truck
- Fiber Optic Splice Trailer
- Fiber Optic Splice Tent
- Fiber Optic Core-Aligned Fusion Splicer
- Fiber Optic Core-Aligned Ribbon Fusion Splicer
- Optical Time Domain Reflectometer
- Visual Fault Indicator
- One set of light meters
- Fiber optic stripper
- Fiber optic cleaver
- Misc. Hand Tools

The equipment and respective rolling stock will be stored indoors, inside the NOC with the permission of the City.

Point of Contact

Hometown Fiber will be a point of contact for the operation of the fiber optic system. As such, Hometown Fiber will provide and maintain the following:

- Project website www.connectwillmar.com
- support@connectwillmar.com email
- Contact number: 320-403-4401

Operating the Network Operation Center

Hometown Fiber will operate the NOC. This includes:

- Establishing and maintaining fiber optic interconnections within the facility.
- Troubleshooting, locating and performing fiber optic repairs.
- Managing planned maintenance windows.
- Telecom equipment rack management.
- ISP coordination.
- Maintain a trouble ticket/task management system.
- Coordinate facility repairs with City.
  - Facility repairs include items that one (1) Hometown Fiber technician cannot accommodate. Examples include:
    - HVAC repairs
    - Generator repairs/maintenance
    - Electric repairs/changes/maintenance
    - Plumbing & Drains
    - Building Envelope such as roof, walls, windows, doors, structural supports, foundation.
    - Internal components such as walls, doors, floors, ceilings

Operating the Outside Plant Fiber Optic Network

Hometown Fiber will operate the day-to-day requirements of the outside plant fiber optic network. This includes:

- Troubleshooting, locating, and repairing minor fiber optic problems.
- Routing fiber optic strands
- Being a point of contact for ISPs, businesses, residences and other users of the outside plant fiber optic network.
- Maintain a trouble ticket/task management system.
- Maintain as built documentation.
  - ESRI file and file access
    - Conduit routes
    - Hand hole locations
    - Fiber cables
    - Strand Counts
      - Cable Count, Network Count'
      - Status such as: Lit, Dark, Reserved, Looping.

Definitions

A-CAM
Enhanced Alternative Connect America Cost Model

- The Enhanced A-CAM program supplies universal service high-cost support to taking part carriers for deployment of 100/20 Mbps or faster broadband service to all locations served by the program, including the most difficult-to-reach areas of the country.

BEAD
Broadband Equity Access and Deployment Program

- A Federal broadband funding program supplies 42.45 billion dollars to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs. Each State gives an action plan and is awarded funding.

CO
Central Office

- A telecommunications facility into which local residential and business lines converge and are connected to switches that enable distribution of telephone, video, and data services.

COAX
Coaxial Cable

- A cable consisting of two concentric conductors separated by an insulator. The term coaxial refers to the inner conductor and the outer shield sharing a geometric axis.
- Hometown Fiber uses the term "COAX" within this report to describe broadband services delivered by coaxial cable also known as cable modem services.

COPPER
A red-brown metal with the atomic number 29.

- Hometown Fiber uses "Copper" within this report to describe unshielded twisted pair (legacy telephone) cabling. This cable is made using copper and is a differentiator from Coax or optical fiber in the context of this report.

DARK FIBER
Unused fiber optic strand

Dark fiber refers to fiber optic strands that do not have service or traffic running on them. Sometimes dark fiber strands can be reserved for future use or dedicated for a particular user. Most of the time these strands are available for use.

DMARC
Demarcation point

- In telephony, this is the point at which the service provider's network ends and connects with the customer's on-premises wiring. It decides who oversees installation and maintenance of wiring and equipment.

DSL
Digital subscriber line

- A technology for high-speed network or internet access over legacy copper unshielded twisted pair (telephone) lines. There are distinct types of DSL including: asymmetric DSL (ADSL), high-bit-rate DSL (HDSL, symmetric DSL (SDSL) and very-high-bit-rate DSL (VDSL). The whole group is sometimes referred to as "xDSL."

DSLAM
Digital subscriber line access multiplexer

- A network distribution device that aggregates individual subscriber lines into a high-capacity uplink. These high-capacity uplinks connect subscribers to their Internet service providers (ISPs). DSLAM units are typically found in telephone exchanges or in-field distribution points.

DWDM
Dense Wave Division Multiplexing

- Dense Wave Division Multiplexing uses the C-Band (1530nm-1565nm) transmission window but with denser channel spacing. Channel plans vary, but a typical DWDM system would use 40 channels at 100GHz spacing or 80 channels with 50GHz spacing. Some technologies are capable of 12.5GHz spacing (sometimes called ultra-dense WDM). New amplification options (Raman amplification) enable the extension of the usable wavelengths to the L-band (1565–1625nm), more or less doubling these numbers.

EMI
Electromagnetic Interference

- Electromagnetic interference (EMI) is unwanted noise or interference in an electrical path or circuit caused by and outside source. It is also known as radio frequency interference (RFI). Electromagnetic interference can cause electronics to operate poorly, malfunction or stop working completely. Electromagnetic interference can be caused by natural or human-made sources.

FCC
Federal communications commission

- A Federal government agency that regulates interstate and international communications by radio, television, wire, satellite and cable in all 50 states and U.S. territories.
- Hometown Fiber references this agency within this report as it is the administrator of the RDOF grant program and has produced RDOF maps and other referenced broadband resources.

FTTC
Fiber to the curb
The installation and use of optical fiber to supply high-speed internet access. Fiber to the Curb in most cases implies an ISP has "Passed By" the property and connection is potentially available at the property line.

FTTH
Fiber to the home

- The installation and use of optical fiber to supply high-speed internet access. Fiber to the home in most cases implies connection from an ISP to a subscriber premise's demarcation point.

FTTP
Fiber to the premise

- The installation and use of optical fiber that stops at the property. Implies actual service however, in recent years, has been used to describe a "pass-by" vs. actual available service.

HTF
Hometown Fiber

- The consulting company that created this report. The best broadband consulting company but, we may be a little biased.

ISP
Internet service provider

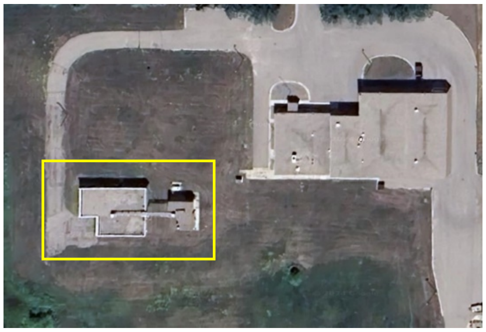
- A company that provides subscribers with access to the internet.

ISPs
Internet service providers (plural of ISP)
- Companies that are providing subscribers with access to the internet.

MAJOR REPAIR
- Requires immediate technical response, and:
    - Results in an outage that impacts more than 100 subscribers;
    - Interrupts one or more High Availability Circuits;
    - Interrupts a Trunk cable; or
    - Interrupts a fiber optic cable with 864 and greater strands of fiber.
- Requires heavy equipment to restore such as a bobcat, mini-excavator, excavator, dozer, trenchers, and/or emergency locating services.
- Requires more than one fiber optic splice technician to restore.
- Requires temporary circuits to be constructed for rapid restoration.

MINOR REPAIR
A minor repair is a repair that meets the one of the following requirements:
- Can be achieved during normal business hours.
- Is achieved within a planned maintenance window.
- Impacts less than 100 subscribers.
- Can take more than 24-hours to restore.
- Does not require heavy equipment to restore.
- Can be restored with one fiber optic splice technician.

NETWORK OPERATION CENTER (NOC)
In Willmar, Network Operation Center (NOC), refers to a building at the old Wastewater plant which is currently unused. This building will be modified into a NOC that will house fiber optic panels, edge computing equipment, routers, switches, security, surveillance, and internet service provider (ISP) equipment. The NOC will provide physical access and electronic security along with dedicated and locked rooms for ISPs. It is a neutral facility where data can be exchanged between the broader internet and ISPs and between ISPs and their customers.



NTIA
National Telecommunications and Information Administration
- A Federal Government Agency found within the US Department of Commerce is the Executive Branch agency that is principally responsible by law for recommending the President on telecommunications and information policy issues. NTIA's programs and policymaking focus largely on expanding broadband internet access and adoption in America, expanding the use of spectrum by all users, and ensuring that the internet is still an engine for continued innovation and economic growth.
- Hometown Fiber references the NTIA as it is the originator of the BEAD grant program.

OPFON

Outside Plant Fiber Optic Network

- OPFON is the portion of the fiber optic network that is located outdoors between the network operation center and customer network interface devices (NID) located on the exterior of a customer premise. The NID is sometimes referred to as a demarcation (DMARC) point. These cables are sub-categorized into trunks, laterals and drops.

PASS

Go past or across

- In the context of broadband, this has become a term used to describe wireline service, often optical fiber, which goes by a property.

PASS-BY

A wireline cable that is installed into an easement next to a property.

- In the context of broadband, it means a wireline service, mostly optical fiber, which is in a utility easement bordering a property. This does not mean service is affordable or even available. It means the potential for service at that property exists. This is the minimum requirement to receive federal grant funds.

PER-PASS

How many properties does a wireline cable go by.

- In the context of broadband, it has become a unit of measure to mean one (1) property that a wireline service, often optical fiber, goes by a (1) property.

RDOF

Rural digital opportunity fund

- Is a federal broadband funding program that plans to distribute 20.4 billion over 10-years to bring fixed broadband and voice services to millions of unserved homes and small businesses in rural America. Winning service providers have until 2023 to build the census blocks awarded or risk losing the award.

RFI

Radio Frequency Interference

- Radio frequency interference (RFI) is the presence of unwanted signals or electrical energy that detrimentally impacts radio communication systems.

TEMPED

Temporarily Installed

- Cable, equipment or other technology infrastructure installed or configured in a short-term manner for a limited period; not permanent. A broadband infrastructure example would be taping cable to a telephone pole vs. permanently affixing the cable.

TEMPORARY

Lasting for only a limited period; not permanent.

TIER 1

Tier 1 network

- A tier 1 network is an internet protocol (IP) network that can reach every other network on the internet solely via settlement-free interconnection (settlement-free peering). Tier 1 networks can exchange traffic with other Tier 1 networks without paying any fees for the exchange of traffic in either direction.
- Examples of Tier 1 networks include AT&T, Lumen, T-Mobile, Tata Communications, Verizon Enterprise Solutions and Zayo.

TIER 2

Tier 2 network

- A tier 2 network is an internet service provider in the practice of peering with other networks, but which also buys IP transit to reach the internet. It is much easier to buy transit from a tier 1 network than to peer with them and try to become a Tier 1 carrier.
- Examples of larger Tier 2 networks include Comcast (purchases transit from Tata), and Hurricane Electric.

TIER 3

Tier 3 network

- A tier 3 network is a network who buys internet protocol transit from Tier 2 networks.
- Examples include smaller, local or regional service providers.

WDM

Wave Division Multiplexing

- In fiber-optic communications, **wavelength-division multiplexing** (**WDM**) is a technology which multiplexes many optical carrier signals onto a single optical fiber by using different wavelengths (i.e., colors) of laser light. This technique enables bidirectional communications over a single strand of fiber (also called **wavelength-division duplexing**) as well as multiplication of capacity.

ROI

Return On Investment

- Is a performance measure used to evaluate the efficiency or profitability of an investment.

XO

Executive Officer.

City of Willmar
Fiber Use Agreement
Exhibit B: Certificate of Insurance

waste

Submitted To
Kyle Box
City Operations Director
City of Willmar

Date
March 06, 2024
Version
V0.R1

Submitted By
Kyle Moorhead
President
Hometown Fiber

Hometown Fiber
18457 Gladstone Boulevard North | Maple Grove, Minnesota 55311
763.299.9500 | yourhometownfiber.com

HOMEFIB-01 CATHYS

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/28/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
McNamara Company 1330 Highway 96 E White Bear Lake, MN 55110	PHONE (A/C, No, Ext): (651) 426-0607	FAX (A/C, No): (651) 426-5790
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : The Hartford Insurance	37478
INSURED	INSURER B :	
Hometown fiber, LLC 18457 GLADSTONE BLVD N Maple Grove, MN 55311	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC X OTHER: Professional LiabilityCoverage	X		41SBMAU30B2	9/22/2023	9/22/2024	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			41SBMAU30B2	9/22/2023	9/22/2024	COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			41SBMAU30B2	9/22/2023	9/22/2024	EACH OCCURRENCE	$ 1,000,000
							AGGREGATE	$ 1,000,000
								$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		41WECAU3ABX	9/22/2023	9/22/2024	X PER STATUTE / OTH-ER	
							E.L. EACH ACCIDENT	$ 100,000
							E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations. Certificate holder is an Additional Insured per the General Liability Coverage. Coverage is Primary and Non-Contributory. 30 days' advance written notice of cancellation to the City of Willmar, or 10 days' prior written notice for nonpayment of premium to the City of Willmar.

CERTIFICATE HOLDER	CANCELLATION
City of Willmar 333 6th Street SW Willmar, MN 56201	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

City of Willmar
Fiber Use Agreement
Exhibit C: MAPS

Submitted To

Kyle Box
City Operations Director
City of Willmar

Date

March 06, 2024

Version

V0.R1

Submitted By

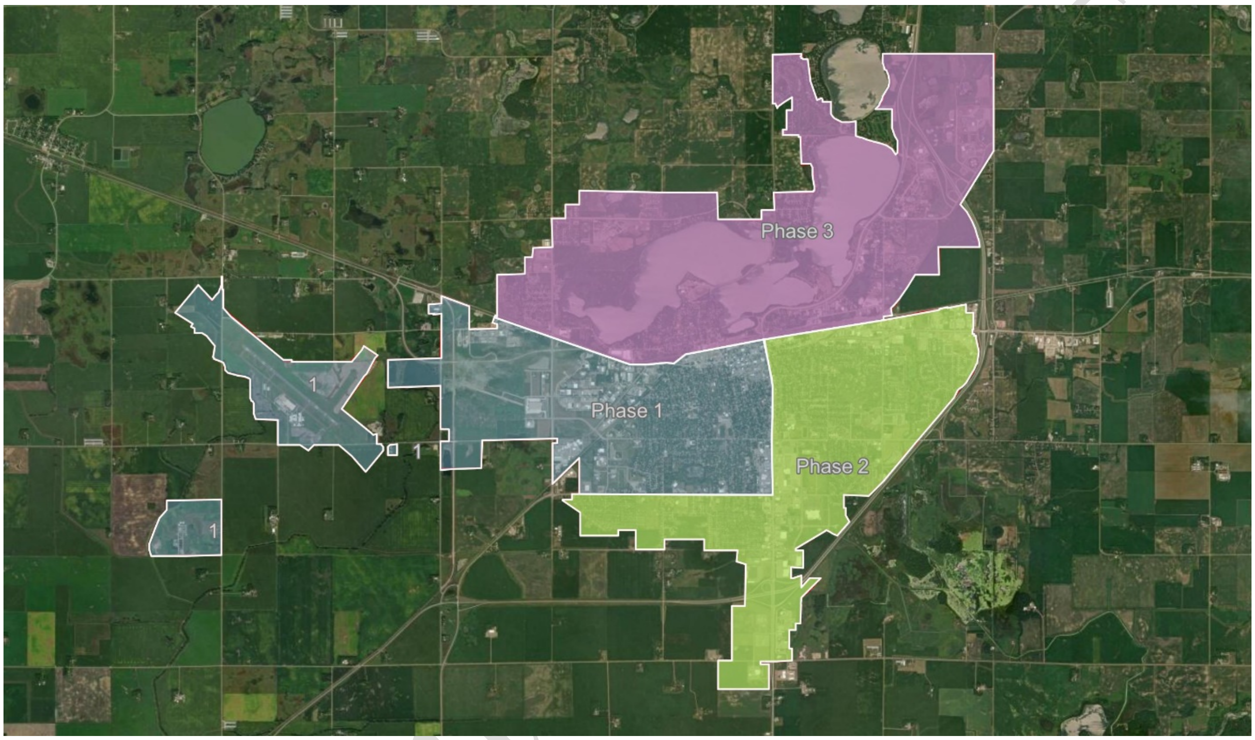
Kyle Moorhead
President
Hometown Fiber

Hometown Fiber
18457 Gladstone Boulevard North | Maple Grove, Minnesota 55311
763.299.9500 | yourhometownfiber.com

Network Map

The Network Map

The network map is still in the pre-construction drawing phases of development. For the most current map, please visit the project website: www.connectwillmar.com



Network Operations Facility (NOC)

The NOC

To operate a city-wide network, there needs to be a secure facility for the connections and electronics to be housed. The City has a currently unused facility at the old wastewater site that fits the needs of the NOC almost perfectly. The facility is referenced in legal documents as the Network Operations Center (NOC).

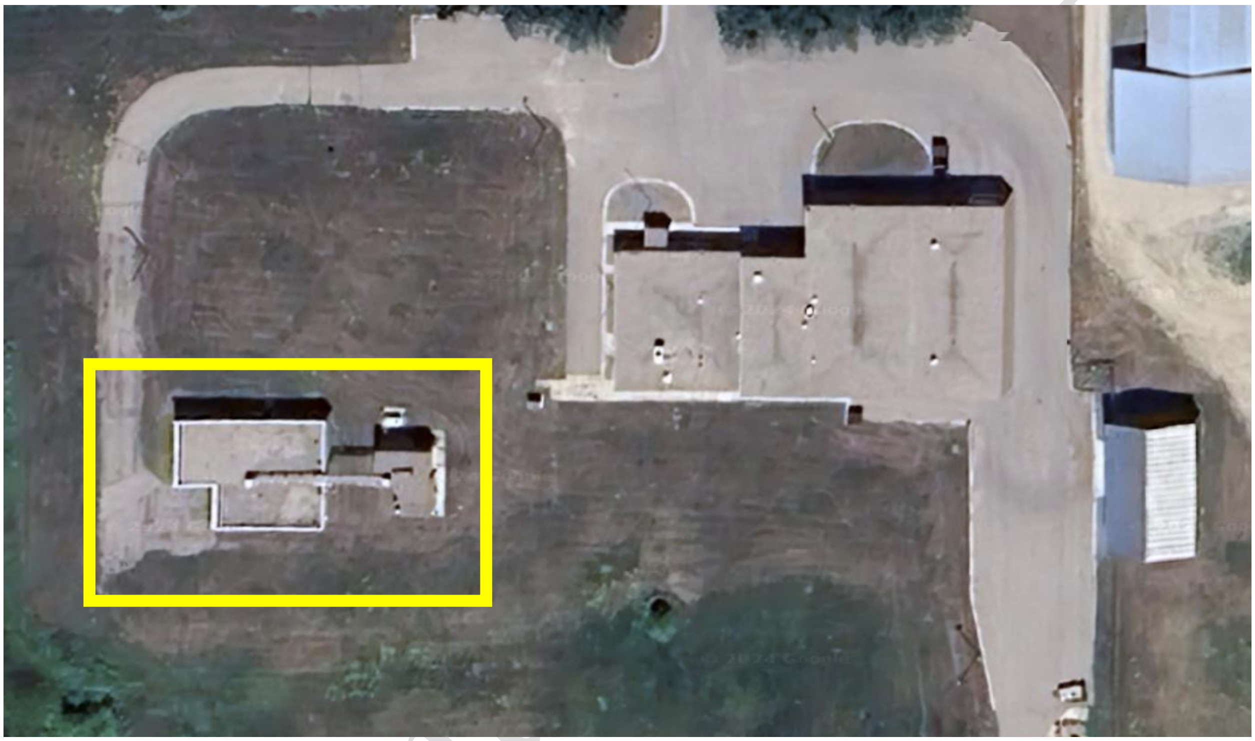


EXHIBIT E

MANAGER COMPENSATION

- The Manager, as the technical representative of the City, will receive compensation for managing the day-to-day operations of the City Network for the benefit of the public as set forth in this Exhibit.

- The City will pay to the Manager a Manager Fee equal to $20,787.00 per month.

- In addition to the Manager Fee, the City shall pay to Manager an End User Fee each month. The End User Fee shall be determined by the quantity of End Users receiving Internet Services in the preceding month The End User Fee shall be calculated at a rate of $5.00 per End User receiving Internet Services in the preceding month

  - Example: If, in any single month, 1,500 End Users receive Internet Services through the City Network, the City will compensate the Manager as follows:

Manager Fee + End User Fee: $5.00 per End User	$20,787 $7,500
Monthly Total Compensation	**$28,287.00**

- The Manager Fee and the End User Fee shall be evaluated every year but shall at no time be less than a combined total of $20,787, unless otherwise agreed to in writing by both Parties.

- The Manager Fee shall receive Cost-Of-Living Adjustments (COLA). The COLA will be increased once per year beginning January 1st of each year. COLA is equal to the percentage increase in the CPI-W as calculated by the Bureau of Labor Statistics.

- The Manager Fee and End User Fee are subject to review and renegotiation as set forth in Section 14.15 of the Contract.

- During the construction of the City Network and prior to one or more End Users receiving Internet Services, the Manager will be compensated for its support of the engineering and design of the City Network pursuant to the Consultant Agreement.

INC· WILLMAR MINNESOTA 1901

City Council Action Request

Council Meeting Date:	August 5, 2024	Agenda Item Number:	11.E.
Agenda Section:	Regular Business	Originating Department:	Administration
Resolution:	Yes	Prepared By:	Kyle Box, City Operations Director
Ordinance:	No	Presented By:	Kyle Box, City Operations Director
Item:	Professional Services Agreement Between the City of Willmar and Bolton & Menk		

RECOMMENDED ACTION:
To Approve the Professional Services Agreement between the City of Willmar and Bolton & Menk

OVERVIEW:
The City of Willmar is proposing to complete an entire fiber network within the city limits to provide broadband services to all current residential and business properties in 3 different phases, along with a Network Operations Center (NOC). This proposal is for Bolton & Menk, Inc. to provide design services for the Phase 1 project area, not including the NOC, and will be completed in conjunction with the services provided by Hometown Fiber and the City of Willmar. Bolton & Menk, Inc.'s scope of services is dependent upon and relies on the cooperative effort of Hometown Fiber and the City of Willmar. Please see the attached map showing the Phase 1 project area.

The project currently has undergone a progressive feasibility study by Hometown Fiber identifying existing conditions to create a network model. This information has given technical facts demonstrating the infrastructure material needs and cost estimate feasibility to move forward with the project. The proposal & scope of services for Phase 1 have been based on this information, in addition to our discussions with the City of Willmar and Hometown Fiber.

BUDGETARY/FISCAL ISSUES:
$403,000 (Not to exceed)
Industrial Park Fund

ALTERNATIVES TO CONSIDER:
None Recommended
ATTACHMENTS:
1. Resolution B&M Phase 1
2. 2024-07-15 Willmar Hometown Fiber Proposal - Phase 1
3. 2024-07-17 Consultant Services Agreement - City of Willmar Fiber Project, Engineer Executed

4. Exhibit 2 - 2024 Cert of Insurance

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING THE CITY OF WILLMAR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH BOLTON & MENK

Motion By: ____________________ Second By:____________________

BE IT RESOLVED by the City Council of the City of Willmar, Minnesota, to authorize the Mayor and the City Administrator to enter into a Professional Services Contract with Bolton & Menk for the City of Willmar Proposed Phase 1 Fiber Infrastructure Project in the amount not to exceed $403,000.

Dated this 5th day of August, 2024

____
MAYOR

Attest:

____
CITY CLERK

BOLTON & MENK
Real People. Real Solutions.

2040 Highway 12 East
Willmar, MN 56201-5818

Ph: (320) 231-3956
Fax: (320) 231-9710
Bolton-Menk.com

July 15, 2024

Kyle Box
City Operations Director
City of Willmar
333 Southwest 6th Street
Willmar, Minnesota 56201

RE: Proposal for Professional Services
City of Willmar Fiber Network – Phase 1

Dear Mr. Box:

Bolton & Menk, Inc., is pleased to submit this proposal for professional engineering services on the proposed City of Willmar Fiber Network Project – Phase 1. Our previous experience and current working relationship with the City of Willmar will provide efficiencies and collaboration of the project. We sincerely thank you for the opportunity and look forward to continuing to serve the City of Willmar.

PROJECT UNDERSTANDING

The City of Willmar is proposing to complete an entire fiber network within the city limits to provide broadband services to all current residential and business properties in 3 different phases along with a Network Operations Center (NOC). This proposal is for Bolton & Menk, Inc. to provide design services for the Phase 1 project area, not including the NOC, and will be completed in conjunction with the services provided by Hometown Fiber and the City of Willmar. Bolton & Menk, Inc.'s scope of services is dependent upon and rely on the cooperative effort of Hometown Fiber and the City of Willmar. Please see the attached map showing the Phase 1 project area.

The project currently has undergone a progressive feasibility study by Hometown Fiber identifying existing conditions to create a network model. This information has given technical facts demonstrating the infrastructure material needs and cost estimate feasibility to move forward with the project. Our proposal & scope of services for Phase 1 has been based on this information, in addition, on our discussions with the City of Willmar and Hometown Fiber.

SCOPE OF SERVICES

Task 1: Network Design

1. Provide review and comment of the network architecture and construction documents completed by Hometown Fiber at a 50%, 80%, & 90% document completion stage.
2. Develop design coordination efforts for the completion of construction documents.
3. Review project corridors of the network architecture to foresee construction constraints of the proposed improvements.
4. Relay known network architecture revision needs to Hometown Fiber's network architecture for construction

documents.

5. Gather and implement record drawings of known conflict areas or due to permitting needs of the project into the network design.
6. Complete the plan set generation of the network design within the project corridors including migration of GIS data to pdf construction documents.

Task 2: Construction Documents

1. Prepare 90% Construction Plans, technical specifications, and project manual, and conduct a workshop meeting with the City of Willmar & Hometown Fiber for review. Incorporate review changes.
2. Prepare a construction cost estimate based on the completed construction documents.
3. A Project Manual including technical specifications of Hometown Fiber's network items and the City of Willmar's standard specifications will be organized.
4. Prepare the final Construction Documents for bid distribution.

Task 3: Permits

1. Prepare applications for required permits and a comprehensive list of permits with the corresponding fees will be provided to the city. All permit fees will be the responsibility of the City of Willmar. As part of the permitting process, Bolton & Menk, Inc. will verify and document regulations associated with the improvements.
2. Submit drawings and application to regulatory agencies for plan review and permits.
3. Address regulatory agency's review comments in letter form and revise drawings if needed based on comments from the plan review.
4. Obtain permits necessary for construction of the proposed improvements.

Task 4: Bidding

1. Bolton & Menk, Inc. will prepare the project advertisements for bids while working closely with city staff to ensure the bid opening date fits with council meeting schedules. The project will be advertised in the West Central Tribune, QuestCDN, and our website. Advertising costs will be the responsibility of the City of Willmar.
2. Bolton & Menk, Inc. will distribute bidding documents, prepare required addenda, and conduct the project bid opening.
3. Following the bid opening, an evaluation of the bids will be conducted including a bid tab and abstract submitted by each bidder. Bolton & Menk will provide a recommendation letter to the city regarding the award of a contract.
4. Bolton & Menk will prepare contract documents, obtain all insurance and bonding requirements from the contractor, verify all required information has been provided by the contractor, and distribute contract documents for the city to issue a Notice to Proceed to the Contractor.

SCHEDULE

Upon execution by the City of Willmar, Bolton & Menk, Inc. proposes the following schedule to develop our project deliverables:

Phase 1 Project Schedule – 2024/2025	
Task	**Finish**
1. Network Design	August 2024

2. Construction Documents	September 2024
3. Permits	November 2024
4. Bidding	November/December 2024
Construction Start	May 2025

This schedule will be adjusted based on progression of task deliverables or decisions by the city that may impact the schedule.

FEES

We propose to provide the described work on an HOURLY NOT TO EXCEED contract up to a total fee of **$403,000**. Hours will be billed monthly only for work completed on the project. If the project takes less time, the city will be billed only for hours worked, unless given approval to proceed with additional work outside our scope of services.

We will submit invoices for payment monthly based on the time spent completing the tasks identified above. If less hours than those estimated are required to complete the tasks, the invoice amounts will be less. Any significant changes to the project scope initiated by the city may require an additional fee. Additional fees will be billed at our Standard Hourly Rates. Fees that are normal and customary expenses associated with operating a professional business will not be charged separately. Unless otherwise agreed, the above rates include vehicle and personal expenses, mileage, telephone, and routine expendable supplies; and no separate charges will be made for these activities and materials.

If you have any questions regarding our proposal, please contact me at your convenience at 320-905-3520 or Joshua.Halvorson@bolton-menk.com. We look forward to assisting you with another successful project and appreciate the opportunity to continue to serve the City of Willmar. We are prepared to proceed upon your notification.

Sincerely,

Bolton & Menk, Inc.

Joshua J. Halvorson
Principal Engineer

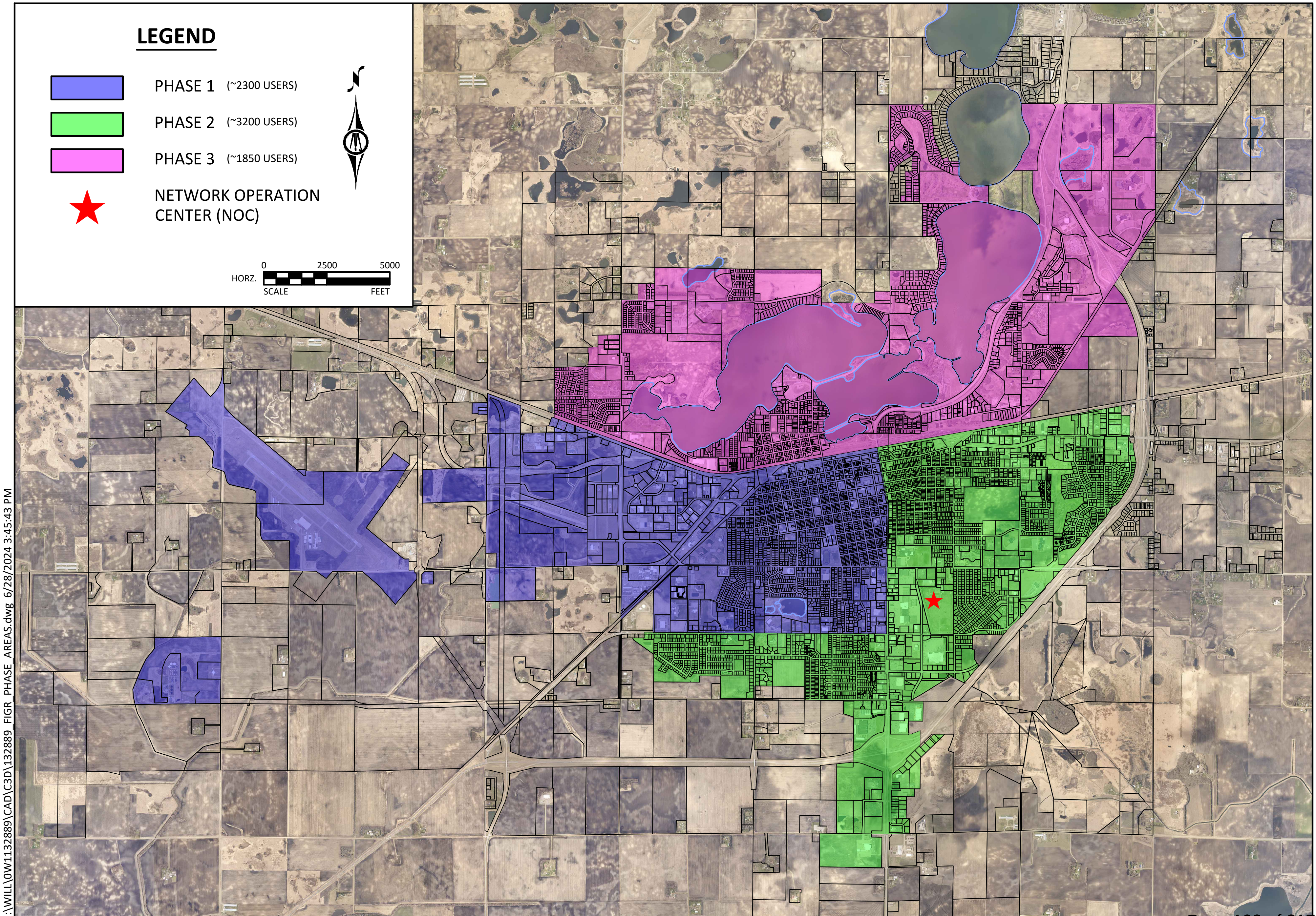
cc: Jared Voge, City Engineer

Attachments: Phasing Map

FIGURE 1: PHASE AREAS

JUNE 2024

BOLTON & MENK



H:\WILL\0W1132889\CAD\C3D\132889_FIGR_PHASE_AREAS.dwg 6/28/2024 3:45:43 PM

CONSULTANT SERVICES CONTRACT

This Contract is made this _________ day of _________________,_________, by and between the CITY OF WILLMAR, a Minnesota Municipal Corporation, 333 6th Street SW, Willmar, MN 56201, ("CITY"), and Bolton & Menk, Inc., 2040 Highway 12 East Willmar, MN 56201, ("CONSULTANT"), (collectively the "PARTIES").

WHEREAS, CITY requires professional engineering services in conjunction with the City of Willmar Fiber Network – Phase 1 (the "Project"); and

WHEREAS, CONSULTANT agrees to furnish the various professional services required by CITY.

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

SECTION I – CONSULTANT'S SERVICES AND RESPONSIBILITIES

A. **Scope of Services.** CONSULTANT agrees to perform various Project services as detailed in Exhibit 1, Scope of Services, attached hereto and incorporated herein by reference.

B. **Changes to Scope of Services/Additional Services.** Upon mutual agreement of the parties hereto pursuant to Section VI, Paragraph K of this Contract, a change to the scope of services detailed in Exhibit 1, attached hereto, may be authorized. In the event that such a change to the scope of services detailed in Exhibit 1, attached hereto, requires additional services by CONSULTANT, CONSULTANT shall be entitled to additional compensation consistent with Section III of this Contract. CONSULTANT shall give notice to CITY of any additional services prior to furnishing such additional services. CITY may request an estimate of additional cost from CONSULTANT, and upon receipt of the request, CONSULTANT shall furnish such cost estimate, prior to CITY's authorization of the changed scope of services.

C. **Changed Conditions.** If CONSULTANT determines that any services it has been directed or requested to perform by CITY are beyond the scope of services detailed in Exhibit 1, attached hereto, or that, due to changed conditions or changes in the method or manner of administration of the Project, CONSULTANT's effort required to perform its services under this Contract exceeds the estimate which formed the basis for CONSULTANT's compensation, CONSULTANT shall promptly notify CITY of that fact. Upon mutual agreement of the parties hereto pursuant to Section VI, Paragraph K of this Contract, additional compensation for such services, and/or an extension of time for completion thereof, may be authorized. In the absence of such a mutual agreement, amounts of compensation and time for completion shall be equitably adjusted, provided that CONSULTANT first provides notice to CITY as required by this Paragraph and CITY has not terminated this Contract pursuant to Section IV, Paragraph B.

D. **Standard of Care.** Services provided by CONSULTANT or its subcontractors and/or sub-consultants under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of CONSULTANT's profession or industry. CONSULTANT shall be liable to the fullest extent permitted under applicable law, without limitation, for any injuries, loss, or damages proximately caused by Consultant's breach of this standard of care. CONSULTANT shall put forth reasonable efforts to complete its duties in a timely manner. CONSULTANT shall not be responsible for delays caused by factors beyond its control or that could not be reasonably foreseen at the time of execution of this Contract. CONSULTANT shall be responsible for costs, delays or damages arising from unreasonable delays in the performance of its duties.

E. ~~**Guarantee.** CONSULTANT further agrees to guarantee all materials and parts supplied under this Contract against inferiority as to specifications, such guarantee to be unconditional.~~

F. **Insurance.**

1. Required Insurance. CONSULTANT agrees to maintain, at CONSULTANT's expense, the following insurance policies in the listed amounts:

Worker's Compensation	Statutory Limits
Employer's Liability	\$500,000 each accident \$500,000 disease policy limit \$500,000 disease each employee
Comprehensive General Liability	\$1,500,000 property damage and bodily injury per occurrence \$2,000,000 general aggregate \$2,000,000 Products – Completed Operations Aggregate \$100,000 fire legal liability each occurrence \$5,000 medical expense
Comprehensive Automobile Liability	\$1,000,000 combined single limit each accident (shall include coverage for all owned, hired and non-owed vehicles)
Umbrella or Excess Liability	\$1,000,000

All policies listed above shall be written on an "occurrence" form ("claims made" and "modified occurrence" forms are not acceptable) and shall apply on a "per project" basis.

With the exception of the Worker's Compensation policies, all policies listed above shall insure the defense and indemnity obligations assumed by CONSULTANT under this Contract, and shall name CITY as an additional insured under the policy.

All polices listed above shall contain a provision that coverages afforded thereunder shall not be canceled or non-renewed, nor shall coverage limits be reduced by endorsement, without ten (10) prior written notice in the case of non-payment and thirty (30) days prior written notice for all other reasons to CITY.

Umbrella or Excess Liability Insurance in excess of the amount required above and written over Employer's Liability, Commercial General Liability and Automobile Liability may be utilized to supplement the required limits for such insurance.

2. Professional Liability Insurance. CONSULTANT agrees to provide to CITY a certificate evidencing that it has in effect, with an insurance company in good standing and authorized to do business in Minnesota, a professional liability insurance policy coverage insuring CONSULTANT against damages for legal liability arising from an error, omission or negligent act in the performance of professional services for CITY. Said policy shall insure payment of damage for legal liability arising out of the performance of professional services. Said policy shall provide coverage in the minimum amounts of $1,000,000 for each occurrence and $3,000,000 annual aggregate on a claims-made basis. Said policy shall not name CITY as an insured. Said policy shall additionally contain a provision that coverages afforded there under shall not be canceled or non-renewed, nor shall coverage limits be reduced by endorsement, without ten (10) days prior written notice in the case of non-payment of premium and thirty (30) days prior written notice in case of any other reason to CITY.

3. Certificates of Insurance. True, accurate and current certificates of insurance, showing evidence of the required insurance coverages, are hereby provided to CITY by CONSULTANT and are attached hereto as Exhibit 2.

4. Effect of Failure to Provide Insurance. If CONSULTANT fails to provide the specified insurance, then CONSULTANT will defend, indemnify and hold harmless CITY and CITY's officials, agents and employees from any loss, claim, liability and expense (including reasonable attorney's fees and expenses of litigation) to the extent necessary to afford the same protection as would have been provided by the specified insurance. Except to the extent prohibited by law, this indemnity applies regardless of any strict liability or negligence attributable to CITY (including sole negligence) and regardless of the extent to which the underlying occurrence (i.e., the event giving rise to a claim which would have been covered by the specified insurance) is attributable to the negligent or otherwise wrongful act or omission (including breach of contract) of

CONSULTANT, its subcontractors, agents, employees or delegates. CONSULTANT agrees that this indemnity shall be construed and applied in favor of indemnification. CONSULTANT also agrees that if applicable law limits or precludes any aspect of this indemnity, then the indemnity will be considered limited only to the extent necessary to comply with that applicable law. The stated indemnity continues until all applicable statutes of limitation have run.

If a claim arises within the scope of the stated indemnity above in this paragraph F.4, CITY may require CONSULTANT to:

a. Furnish and pay for a surety bond, satisfactory to CITY, guaranteeing performance of the indemnity obligation; or

b. Furnish a written acceptance of tender of defense and indemnity from CONSULTANT's insurance company.

CONSULTANT will take the action required by CITY within fifteen (15) days of receiving notice from CITY.

SECTION II – CITY'S RESPONSIBILITIES

A. CITY shall promptly compensate CONSULTANT as services are performed to the satisfaction of the City Engineer, in accordance with Section III of this Contract.

B. CITY shall provide access to any and all previously acquired information relevant to the scope of services detailed in Exhibit 1, attached hereto, in its custody to CONSULTANT for its use, at CONSULTANT's request. The CITY shall provide such legal, financial consulting (including, if applicable, "municipal advisor" services as regulated by SEC), independent cost estimating and insurance counseling services as may be required for completion of the CONSULTANT services described in this agreement.

C. CITY will, to the fullest extent possible, grant access to and make all provisions for entry upon both public and private property as necessary for CONSULTANT's performance of the services detailed in Exhibit 1, attached hereto.

D. Justin DeLeeuw CITY's Public Works Director, shall serve as the liaison person to act as CITY's representative with respect to services to be rendered under this Contract. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define CITY'S policies with respect to the Project and CONSULTANT's services.
Such person shall be the primary contact person between CITY and CONSULTANT with respect to the services from CONSULTANT under this Contract. CITY reserves the right to substitute the authorized contact person at any time and shall notify CONSULTANT thereof.

SECTION III – CONSIDERATION

A. **Fees.** CITY will compensate CONSULTANT as detailed in Exhibit 3, Schedule of Fees, which is attached hereto and incorporated herein by reference, for CONSULTANT's performance of services under this Contract.

B. If CITY fails to make any payment due CONSULTANT for services performed to the satisfaction of the City Public Works Director and expenses within thirty days after the date of CONSULTANT's invoice, CONSULTANT may, after giving seven days written notice to CITY, and without waiving any claim or right against CITY and without incurring liability whatsoever to CITY, suspend services and withhold project deliverables due under this Contract until CONSULTANT has been paid in full all amounts due for services, expenses and charges.

SECTION IV – TERM AND TERMINATION

A. **Term.** This Contract shall be in effect until such time as the Project is completed or as otherwise provided in this Contract.

B. **Termination.** This Contract may be terminated by either party for any reason or for convenience by either party upon seven (7) days written notice. In the event of termination, CITY shall be obligated to CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Contract.

C. **Default.** If CONSULTANT fails to satisfy any of the provisions of this Contract, or so fails to perform and/or administer the services detailed in Exhibit 1, attached hereto, pursuant to the requirements of Section I of this Contract, in such a manner as to endanger the performance of the Contract or the services provided hereunder, this shall constitute default. Unless CONSULTANT's default is excused by CITY, CITY may, upon written notice, immediately cancel this Contract or exercise any other rights or remedies available to CITY under this Contract or law. In the event of CONSULTANT's default, CONSULTANT shall be liable to CITY for any and all costs, disbursements, attorney and consultant fees reasonably incurred by CITY in enforcing this Contract.

D. **Suspension of Work.** If any work performed by CONSULTANT is abandoned or suspended in whole or in part by CITY, CONSULTANT shall be paid for any services performed to the satisfaction of the City Public Works Director prior to CONSULTANT's receipt of written notice from CITY of such abandonment or suspension, but in no event shall the total of CITY's payments to CONSULTANT under this Contract be required to exceed a percentage of the total contract price (calculated by either the Contract price or the maximum price set forth in Exhibit 3, attached hereto) equivalent to the percentage of the scope of services completed by CONSULTANT to the satisfaction of the City Public Works Director as determined by CITY.

SECTION V – INDEMNIFICATION

A. CONSULTANT shall indemnify, protect, save, hold harmless and insure CITY, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by CONSULTANT or its agents, employees, contractors, subcontractors, or sub-consultants with respect to CONSULTANT's performance of its obligations under this Contract. CONSULTANT shall defend CITY against the foregoing, or litigation in connection with the foregoing, at CONSULTANT's expense, with counsel reasonably acceptable to CITY. CITY, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the gross negligence or willful misconduct of CITY. All indemnification obligations shall survive termination, expiration or cancellation of this Contract.

B. CITY shall indemnify protect, save, hold harmless and insure CONSULTANT, and its respective officers, directors, employees and members and agents, from and against any and all claims and demands for, or litigation with respect to, all damages which may arise out of or be caused by CITY or its agents, employees, contractors, subcontractors or sub-consultants with respect to CITY's performance of its obligations under this Contract. CITY shall defend CONSULTANT against the foregoing, or litigation in connection with the foregoing, at CITY's expense, with counsel reasonably acceptable to CONSULTANT. CONSULTANT, at its expense, shall have the right to participate in the defense of any Claims or litigation and shall have the right to approve any settlement, which approval shall not be unreasonably withheld. The indemnification provision of this Section shall not apply to damages or other losses proximately caused by or resulting from the gross negligence or willful misconduct of CONSULTANT. All indemnification obligations shall survive termination, expiration or cancellation of this Contract.

C. Nothing contained in this Contract shall create a contractual relationship with or a cause of action in favor of a third party against CITY or CONSULTANT. CONSULTANT's services under this Contract are being performed solely for CITY's benefit, and no other entity shall have any claim against CONSULTANT because of this Contract or the performance or nonperformance of services provided hereunder.

SECTION VI – GENERAL TERMS

A. **Voluntary and Knowing Action.** The PARTIES, by executing this Contract, state that they have carefully read this Contract and understand fully the contents thereof; that in executing this Contract they voluntarily accept all terms described in this Contract without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

B. **Authorized Signatories.** The PARTIES each represent and warrant to the other that (1) the persons signing this Contract are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Contract against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

C. **Notices**. The PARTIES' representatives for notification for all purposes are:

CITY:
Justin DeLeeuw
Public Works Director
333 6th Street SW
Willmar, MN 56201
Phone: 320-441-1089
Email: rbaumgarn@willmarmn.gov

CONSULTANT:
Joshua Halvorson, P.E.
Principal Engineer
2040 Highway 12 East
Willmar, MN 56201
Phone: 320-231-3956
Email: josh.halvorson@bolton-menk.com

D. **Dispute Resolution**. CITY and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law

E. **Electronic/Digital Data**. Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CITY are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable by this Contract or except as otherwise explicitly provided in this Contract, all electronic/digital data developed by CONSULTANT as part of the project is acknowledged to be an internal working document for CONSULTANT's purposes solely and any such information provided to CITY shall be on an "as is" basis strictly for the convenience of CITY without any warranties of any kind. In the event of any conflict between a hard copy document and the electronic/digital data, the hard copy document governs. The electronic/digital data shall be prepared in the current software in use by the CONSULTANT and is not warranted to be compatible with other systems or software.

F. **Opinions or Estimates of Construction Cost**. Where provided by the CONSULTANT as part of Exhibit 1 or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CITY and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CITY acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.

G. **Independent Contractor Status.** CONSULTANT, at all times and for all purposes hereunder, shall be an independent contractor and is not an employee of CITY for any purpose. No statement contained in this Contract shall be construed so as to find CONSULTANT to be an employee of CITY, and CONSULTANT shall not be entitled to any of the rights, privileges, or benefits of employees of CITY, including but not limited to, workers' compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims.

CONSULTANT acknowledges that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the payments due CONSULTANT, and that it is CONSULTANT's sole obligation to comply with the applicable provisions of all Federal and State tax laws.

CONSULTANT shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein.

CONSULTANT is responsible for hiring sufficient workers to perform the services/duties required by this Contract, withholding their taxes and paying all other employment tax obligations on their behalf.

~~H. **Acceptance of Deliverables.** Each deliverable shall be subject to a verification of acceptability by CITY to ensure such deliverable satisfies stated requirements. The acceptability of any deliverable will be based on CITY's satisfaction or non-satisfaction with the deliverable based on requirements of this Contract. If any deliverable is not acceptable, CITY will notify CONSULTANT specifying reasons in reasonable detail, and CONSULTANT will, at no additional cost, conform the deliverable to stated requirements of this Contract.~~

I. **Subcontracting.** CONSULTANT shall not enter into any subcontract for performance of any services contemplated under this Contract without the prior written approval of CITY. CONSULTANT shall be responsible for the performance of all subcontractors and/or sub-consultants. As required by Minn. Stat. § 471.425, CONSULTANT must pay all subcontractors, less any retainage, within 10 calendar days of CONSULTANT's receipt of payment from the CITY for undisputed services provided by the subcontractor(s) and must pay interest at the rate of one and one half percent per month or any part of a month to the subcontractor(s) on any undisputed amount not paid on time to the subcontractor(s).

J. **Assignment.** This Contract may not be assigned by either Party without the written consent of the other Party.

K. **Modifications/Amendment.** Any alterations, variations, modifications, amendments or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing, and signed by authorized representative of the CITY and CONSULTANT.

L. **Records—Availability and Retention.** Pursuant to Minn. Stat. § 16C.05, subd. 5, CONSULTANT agrees that CITY, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of CONSULTANT and involve transactions relating to this Contract.

CONSULTANT agrees to maintain these records for a period of six years from the date of termination of this Contract.

M. **Force Majeure**. The PARTIES shall each be excused from performance under this Contract while and to the extent that either of them are unable to perform, for any cause beyond its reasonable control. Such causes shall include, but not be restricted to fire, storm, flood, earthquake, explosion, war, total or partial failure of transportation or delivery facilities, raw materials or supplies, interruption of utilities or power, and any act of government or military authority. In the event either party is rendered unable wholly or in part by force majeure to carry out its obligations under this Contract then the party affected by force majeure shall give written notice with explanation to the other party immediately.

N. **Compliance with Laws.** CONSULTANT shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Contract or to the facilities, programs and staff for which CONSULTANT is responsible.

O. **Covenant Against Contingent Fee.** CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Contract.

P. **Covenant Against Vendor Interest.** CONSULTANT warrants that it is not employed by any vendor of equipment or service provider that could result in a commission, percentage, brokerage, or contingent fee as a result of CONSULTANT's association with the CITY.

Q. **Non-Discrimination.** The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Contract as if fully set forth herein.

R. **Interest by City Officials.** No elected official, officer, or employee of CITY shall during his or her tenure or employment and for one year thereafter, have any interest, direct or indirect, in this Contract or the proceeds thereof.

S. **Work Product.** All materials such as reports, exhibits, models, graphics, computer files, maps, charts, and supporting documentation produced under work authorized by this Contract ("Materials") shall become the property of CITY upon completion of the work. CITY may use the information for the Project for which they were prepared. Such use by CITY shall not relieve any liability on the part of CONSULTANT. Notwithstanding any of the foregoing to the contrary; (a) CONSULTANT may reuse standard details of its Materials in the normal course of its business; and (b) CITY understands that the Materials have been prepared for a specific project, and are not intended to be reused for other purposes. If CITY reuses the Materials for any other purpose, CITY waives any claims against CONSULTANT arising from such reuse and agrees to defend and indemnify CONSULTANT from any claims arising from such reuse.

T. **Governing Law**. This Contract shall be deemed to have been made and accepted in Kandiyohi County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Contract without regard to its choice of law or conflict of laws principles.

U. **Data Practices.** The PARTIES acknowledge that this Contract is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*

V. **No Waiver.** Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Contract or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Contract. Any express waiver of a term of this Contract shall not be binding and effective unless made in writing and properly executed by the waiving Party.

~~W. : **Special Conditions.** To the extent not inconsistent with this Contract, including Exhibits 1-3, this Contract is subject to such special conditions as are set forth in Exhibit 4, Special Conditions Supplement, which is attached hereto and made a part hereof.~~

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

Y. **Patented Devices, Materials and Processes**. If this Contract requires, or the CONSULTANT desires, the use of any design, device, material or process covered by letters, patent or copyright, trademark or trade name, CONSULTANT shall provide for such use by suitable legal agreement with the patentee or owner and a copy of said agreement shall be filed with CITY. If no such agreement is made or filed as noted, CONSULTANT shall indemnify and hold harmless CITY from any and all claims for infringement by reason of the use of any such patented designed, device, material or process, or any trademark or trade name or copyright in connection with the services agreed to be performed under the Contract, and shall indemnify and defend CITY for any costs, liability, expenses and attorney's fees that result from any such infringement.

Z. **Mechanic's Liens.** CONSULTANT hereby covenants and agrees that CONSULTANT will not permit or allow any mechanic's or materialman's liens to be placed on the City's interest in the Property that is the subject of the Project during the term hereof. Notwithstanding the previous sentence, however, in the event any such lien shall be so placed on CITY's interest, CONSULTANT shall take all steps necessary to see that it is removed within thirty (30) days of its being filed; provided, however, that CONSULTANT may contest any such lien provided CONSULTANT first posts a surety bond, in favor of and insuring CITY, in an amount equal to 125% of the amount of any such lien.

AA. **Construction Observation.** To the extent required of CONSULTANT in Exhibit 1, CONSULTANT shall visit the project at appropriate intervals during construction to become familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Project plans and specifications, and shall be responsible for notifying CITY of any apparent errors or omissions in contractor's work or any apparent deviations in the contractor's work from the Project plans and specifications developed by CONSULTANT. It is agreed that the CONSULTANT shall not at any time supervise, direct, control, or have authority over any contractor work, nor shall CONSULTANT have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.

BB. **Severability.** The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Contract to the extent of its invalidity or unenforceability, and this Contract shall be construed and enforced as if the Contract did not contain that particular provision to the extent of its invalidity or unenforceability.

CC. **Entire Contract.** These terms and conditions constitute the entire Contract between the PARTIES regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Contract.

DD. **Terms Binding on Successors and Assigns.** All of the terms, covenants and agreements herein contained shall be binding upon and shall inure to the benefit of the heirs, successors and assigns of CONSULTANT and CITY.

EE. **Headings and Captions.** Headings and captions contained in this Contract are for convenience only and are not intended to alter any of the provisions of this Contract and shall not be used for the interpretation of the validity of the Contract or any provision hereof.

FF. **Survivability**. All covenants, indemnities, guarantees, releases, representations and warranties by any Party or PARTIES, and any undischarged obligations of CITY and CONSULTANT arising prior to the expiration of this Contract (whether by completion or earlier termination), shall survive such expiration.

GG. **Execution**. This Contract may be executed simultaneously in two or more counterparts that, when taken together, shall be deemed an original and constitute one and the same document. The signature of any Party to the counterpart shall be deemed a signature to the Contract, and may be appended to, any other counterpart. Facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing Party.

Remainder of page intentionally left blank.

SECTION VII –SIGNATURES

IN WITNESS WHEREOF, the PARTIES have hereunto executed this document the day and year first above written.

CONSULTANT: Bolton and Menk, Inc.

By: ______________________ Date: 7-17-2024
(Signature)

Title: Principal Engineer

Print Name: Joshua Halvorson

By: ______________________ Date: 7-16-2024
(Signature)

Title: Senior Principal Engineer

Print Name: Chuck DeWolf

CITY OF WILLMAR:

By: ______________________ Date: ______________________
Douglas Reese, Mayor

ATTEST:

______________________ Date: ______________________
Leslie Valiant, City Administrator

EXHIBIT 1

SCOPE OF SERVICES

Subject to the terms of this Contract, CONSULTANT shall perform the following services:

The CONSULTANT hereby covenants and agrees to perform and execute all the provisions of the proposal dated July 15th, 2024, as approved by the City of Willmar for work identified as: City of Willmar Fiber Network – Phase 1.

EXHIBIT 2

CERTIFICATES OF REQUIRED INSURANCE COVERAGES

CERTIFICATE OF LIABILITY INSURANCE

ACORD®

DATE (MM/DD/YYYY): 12/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Mary Portner, CISR
Brown & Brown of Minnesota, Inc.	PHONE (A/C, No, Ext): (507) 344-4505 FAX (A/C, No): (866) 800-6599
1120 South Avenue	E-MAIL ADDRESS: Mary.Portner@bbrown.com
North Mankato MN 56003	

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	EMCASCO Insurance Company	21407
INSURER B :	Employers Mutual Casualty Company	21415
INSURER C :	Continental Casualty Company	
INSURER D :		
INSURER E :		
INSURER F :		

INSURED
Bolton and Menk, Inc.
1960 Premier Dr
Mankato MN 56001

COVERAGES **CERTIFICATE NUMBER:** 2024-25 Bolton **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY; CLAIMS-MADE; X OCCUR; GEN'L AGGREGATE LIMIT APPLIES PER: POLICY, X PRO-JECT, LOC; OTHER:	Y		6D50852	01/01/2024	01/01/2025	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
B	AUTOMOBILE LIABILITY: X ANY AUTO; OWNED AUTOS ONLY; SCHEDULED AUTOS; X HIRED AUTOS ONLY; X NON-OWNED AUTOS ONLY	Y		6E50852	01/01/2024	01/01/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	UMBRELLA LIAB; X OCCUR; X EXCESS LIAB; CLAIMS-MADE; DED; X RETENTION $ 0	Y		6J50852	01/01/2024	01/01/2025	EACH OCCURRENCE	$ 10,000,000
							AGGREGATE	$ 10,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N; ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) N; If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		6H50852	01/01/2024	01/01/2025	X PER STATUTE; OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C	Professional Liability E&O Deductible @ $25,000			AEH114019718	12/31/2023	12/31/2024	Per Claim Limit	$5,000,000
							Aggregate Limit	$10,000,000
							Retro Active Date	12/31/1997

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Willmar is added as additional insured under the general, auto & umbrella liability policies on a primary non-contributory basis as per all written contracts.

Valuable Papers coverage limit of $1,300,000.

CERTIFICATE HOLDER

City of Willmar
333 6th St. SW
Willmar MN 56201

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Mary E Portner

<u>EXHIBIT 3</u>

COMPENSATION

Subject to the limitations set forth in this Exhibit, CITY will pay CONSULTANT in a lump sum in accordance with the prices as set forth in the fee estimate included with the proposal dated July 15, 2024, which prices shall conform to those in the accepted CONSULTANT'S proposal on file in the office of the City Clerk of Willmar, Minnesota, the aggregate of which prices, based on scope of work is estimated at $403,000.00.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/13/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Brown & Brown of Minnesota, Inc. 1120 South Avenue North Mankato MN 56003	CONTACT NAME: Mary Portner, CISR PHONE (A/C, No, Ext): (507) 344-4505 FAX (A/C, No): (866) 800-6599 E-MAIL ADDRESS: Mary.Portner@bbrown.com
INSURED Bolton and Menk, Inc. 1960 Premier Dr Mankato MN 56001	

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A :	EMCASCO Insurance Company	21407
INSURER B :	Employers Mutual Casualty Company	21415
INSURER C :	Continental Casualty Company	
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES **CERTIFICATE NUMBER:** 2024-25 Bolton **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC OTHER:	Y		6D50852	01/01/2024	01/01/2025	EACH OCCURRENCE	$ 2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
							GENERAL AGGREGATE	$ 4,000,000
							PRODUCTS - COMP/OP AGG	$ 4,000,000
								$
B	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y		6E50852	01/01/2024	01/01/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	[ ] UMBRELLA LIAB [X] OCCUR [X] EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 0	Y		6J50852	01/01/2024	01/01/2025	EACH OCCURRENCE	$ 10,000,000
							AGGREGATE	$ 10,000,000
								$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		6H50852	01/01/2024	01/01/2025	[X] PER STATUTE [ ] OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C	Professional Liability E&O Deductible @ $25,000			AEH114019718	12/31/2023	12/31/2024	Per Claim Limit	$5,000,000
							Aggregate Limit	$10,000,000
							Retro Active Date	12/31/1997

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Willmar is added as additional insured under the general, auto & umbrella liability policies on a primary non-contributory basis as per all written contracts.

Valuable Papers coverage limit of $1,300,000.

CERTIFICATE HOLDER	CANCELLATION
City of Willmar 333 6th St. SW Willmar MN 56201	**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.** AUTHORIZED REPRESENTATIVE Mary E Portner

ACORD 25 (2016/03)

INC· 1901
WILLMAR
MINNESOTA

City Council Action Request

Council Meeting Date:	August 5, 2024	**Agenda Item Number:**	11.F.
Agenda Section:	Regular Business	**Originating Department:**	Administration
Resolution:	No	**Prepared By:**	Leslie Valiant, City Administrator
Ordinance:	No	**Presented By:**	Leslie Valiant, City Administrator
Item:	Set Council Budget work session week of August 26		

RECOMMENDED ACTION:
Request Council set date to review 2025 annual budget

OVERVIEW:
Request that the Council set a date and time to review the 2025 annual budget anytime the week of August 26, 2024. The suggested days would be Tuesday, August 27th or Wednesday, August 28th due to conflicts with the Comprehensive Plan meetings, Monday, August 26th and Thursday, August 29th.

BUDGETARY/FISCAL ISSUES:

ALTERNATIVES TO CONSIDER:

ATTACHMENTS:
None