CITY OF HOWARD LAKE

City Council Meeting

The City of Howard Lake strives to build upon its good neighbor traditions –
A welcoming community for all, supported by vibrant and engaged businesses and community organizations, involved citizens, and diverse amenities that provide a well-rounded quality of life.

TENTATIVE AGENDA
July 18, 2022 – 7:00 pm

A. CALL TO ORDER
B. PLEDGE OF ALLEGIANCE
C. APPROVAL OF AGENDA
Any additions, deletions, modifications to the agenda will be done at this time.
D. COUNCIL MEETING MINUTES
- a. Consider Approving the Council Meeting Minutes from the June 20, 2022 Meeting.

E. CITIZEN INPUT
F. COUNCIL/COMMITTEE REPORT
G. DEPARTMENT REPORTS
H. CONSENT AGENDA
- a. Consider accepting all Reports & Payment of Claims (May & June).
- b. Consider Various Personnel Appointments.
- c. Consider Downtown Revitalization Grant to Kelli J. Burau LLC.
- d. Consider Confirming 2022 Election Judges & Roles.
- e. Consider Approving Final Grant Language for the MDE Library Grant.

I. PRESENTATIONS, PUBLIC HEARINGS & RELATED APPROVALS
J. NEW BUSINESS
- a. Consider Resolution Authorizing Speed Study on CSAH 7.
- b. Consider Purchase of Generator for Lift Station.
- c. Consider Approving Fee & Scope of Services for Geotechnical Services.
- d. Consider Increasing Public Works On Call Compensation.
- e. Consider Satisfaction of Contract for Deed on 603 8th Avenue aka Howard Lake Foods.
  Closed Session Pursuant to MS13.05D
- f. Consider Approving RFP for 603 8th Avenue aka Howard Lake Foods Site.

K. OLD BUSINESS
L. ADMINISTRATOR'S REPORT
M. ADJOURN

NOTE: The City Council will adjourn to a study session immediately following the regular meeting.

CITY OF HOWARD LAKE

625 8TH Avenue - PO Box 736 - Howard Lake, MN 55349
Phone: 320-543-3670 | cityadmin@howard-lake.mn.us | www.howard-lake.mn.us

HOWARD LAKE CITY COUNCIL
HOWARD LAKE CITY HALL- 625 8th AVENUE
June 20, 2022

MEETING MINUTES

COUNCIL PRESENT	**COUNCIL ABSENT**
Mayor Zimmerman	
Tom Kutz	
Allan Munson	
Gene Gilbert	
Jason Deiter	

STAFF PRESENT
Nick Haggenmiller, City Administrator
Meagan Theisen, Assistant City Administrator
Myra Laway, HLWS & SSEC Manager

ALSO PRESENT
Herald Journal

CALL TO ORDER
Mayor Zimmerman called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE
All present recited the Pledge of Allegiance.

APPROVAL OF AGENDA
Haggenmiller stated with the transition in our finance position, the Liquor Store, SSEC and Claims and Donations are not completed yet and will be included in the July Packet.

Council Member Kutz moved to approve the agenda. The motion was seconded by Council Member Munson and passed unanimously.

APPROVAL OF MINUTES
Council Member Kutz moved to approve the Council Meeting Minutes from May 16th. The motion was seconded by Council Member Gilbert and passed unanimously.

CITIZEN INPUT
No residents addressed the Council.

COUNCIL/COMMITTEE REPORT
Council Member Deiter provided an update from the June Parks and Planning Commission meeting.

Mayor Zimmerman provided a summary of the T-Mobile Grant presentation prior to the Council meeting.

DEPARTMENT REPORTS

None.

CONSENT AGENDA

a. ~~**CONSIDER ACCEPTING ALL REPORTS AND PAYMENT OF CLAIMS**~~

Moved to July agenda.

b. **Consider Various Personnel Appointments.**
c. **Consider Street Closure for Wright County Fair.**
d. **Consider Liquor & Special Event License for Wright County Fair.**

Council Member Deiter moved to approve the Consent Agenda. The motion was seconded by Council Member Munson and passed unanimously.

PUBLIC HEARING/PRESENTATION

Mayor Zimmerman closed the regular meeting and opened the Public Hearing at 7:07 pm.

a. Public Hearing: USDA Community Facilities Grant, Ambulance Cot Application
   I. Approve Submittal of Grant Application & Direct Execution of Documents.

Haggenmiller reviewed the staff report, stating that the step in the process is a formality to be able to submit the grant.

Mayor Zimmerman reopened the regular meeting at 7:09.

Council Member Gilbert moved to approve submitting a grant application and additional documents for the Ambulance cot. The motion was seconded by Council Member Kutz and passed unanimously.

Mayor Zimmerman closed the regular meeting and opened the Public Hearing at 7:09 pm.

b. Public Hearing: Delinquent Utility & City Charges Property Tax Certification
   I. Consider Approval of Resolution 22-12 Certifying Delinquent Charges

Theisen presented the staff report.

Council reviewed an updated list of delinquent accounts.

Mayor Zimmerman reopened the regular Council meeting at 7:12 pm.

Council Member Kutz moved to approve Delinquent Utility & City Charges to be applied to property taxes payable in 2023. The motion was seconded by Council Member Deiter and passed unanimously.

NEW BUSINESS

a. **Consider Approving Ordinance 22-04 Regarding Short Term Rentals**
   i. Consider Approving Resolution 22-13 Authorizing the Summary Publication of Ordinance 22-04

Theisen reviewed the staff report. The Parks and Planning Commission reviewed various ordinances from other cities to create an ordinance for the City of Howard Lake. The PPC chose to go with the minimum renter age to be 25 years old, similar to renting a car.

Resident Rod Werner addressed the Council, sharing his experience with Airbnb issues.

Council discussed proximity of the property manager and a possible max number of short term rental permits allowed.

Council determined that the property manager should be able to respond within 90 minutes.

Council Member Kutz moved to approve Ordinance 22-04 Regarding Short Term Rentals. The motion was seconded by Council Member Gilbert and passed unanimously.

Council Member Deiter moved to approve Resolution 22-13 Authorizing the Summary Publication of Ordinance 22-04. The motion was seconded by Council Member Munson and passed unanimously.

b. **Consider Approving Ordinance 22-05 Regulating Water Use**
   i. Consider Approving Resolution 22-14 Authorizing the Summary Publication of Ordinance 22-05

Haggenmiller presented the staff report.

Council Member Deiter moved to approve Ordinance 22-05 Regulating Water Use. The motion was seconded by Council Member Gilbert and passed unanimously.

Council Member Kutz moved to approve Resolution 22-14 Authorizing the Summary Publication of Ordinance 22-05. The motion was seconded by Council Member Munson and passed unanimously.

OLD BUSINESS

ADMINISTRATORS REPORT

- Council discussed rules for the Splash Pad. Determined that they would like to add no pets on the splash pad surface.
- Haggenmiller shared the City is ready to go out for bid for the Library construction.

ADJOURN

Council Member Kutz motioned to adjourn the meeting at 8:07 PM. The motion was seconded by Council Member Munson and passed unanimously.

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Attest – City Administrator/Clerk | Mayor

CITY OF HOWARD LAKE
CLAIMS & DONATIONS APPROVED
DATE - May 17 - July 18, 2022

GENERAL FUND	**CHECKS: 59361 - 59611**	**$863,456.30**
PAYROLL	**27091-27135, 502071 – 502188**	**139,613.58**
ELECTRONIC	**1198 - 1224**	**79,799.61**
TOTAL		**$1,082,869.49**

AMBULANCE CLAIMS	**CHECKS: 5873 (59544-59546)****	**$1,002.25**
ELECTRONIC	**23-30**	**820.45**
TOTAL		**$1,822.70**

Approved:

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1010 CITIZEN ALLIANCE

1198e	INTERNAL REVENUE SERVICE	5/18/2022	$6,929.26	
1199e	MN DEPT OF REVENUE	5/18/2022	$1,337.16	
1200e	PERA	5/18/2022	$6,247.06	
1201e	FURTHER	5/18/2022	$512.53	
1208e	HOWARD LAKE POSTMASTER	5/23/2022	$0.00	May UB Billing
1209e	INTERNAL REVENUE SERVICE	6/2/2022	$6,827.22	
1210e	MN DEPT OF REVENUE	6/2/2022	$1,324.86	
1211e	PERA	6/2/2022	$6,329.82	
1212e	FURTHER	6/2/2022	$512.53	
1213e	INTERNAL REVENUE SERVICE	6/15/2022	$8,421.26	
1214e	MN DEPT OF REVENUE	6/15/2022	$1,337.11	
1215e	PERA	6/15/2022	$5,935.73	
1216e	FURTHER	6/15/2022	$512.53	
1217e	INTERNAL REVENUE SERVICE	7/1/2022	$8,051.16	
1218e	MN DEPT OF REVENUE	7/1/2022	$1,594.42	
1219e	PERA	7/1/2022	$6,983.15	
1220e	FURTHER	7/1/2022	$512.53	
1221e	INTERNAL REVENUE SERVICE	7/15/2022	$8,091.87	
1222e	MN DEPT OF REVENUE	7/15/2022	$1,476.58	
1223e	PERA	7/15/2022	$6,350.30	
1224e	FURTHER	7/15/2022	$512.53	
27091	GOEPFERT, THOMAS	5/20/2022	$1,018.89	
27092	MILLER, EDWARD M	5/20/2022	$205.67	
27093	PRESTIDGE, HEATHER	5/20/2022	$109.27	
27094	BONNICK, STEVEN	5/20/2022	$364.71	
27095	GOEPFERT, THOMAS	6/3/2022	$1,018.89	
27096	MILLER, EDWARD M	6/3/2022	$110.72	
27097	PRESTIDGE, HEATHER	6/3/2022	$135.85	
27098	BONNICK, STEVEN	6/3/2022	$199.84	
27099	DEITER, JASON	6/17/2022	$1,154.37	
27100	KUTZ, TOM	6/17/2022	$1,154.37	
27101	ZIMMERMAN, PETER A	6/17/2022	$1,616.12	
27102	GOEPFERT, THOMAS	6/17/2022	$1,033.90	
27103	POUKKA, BREANNA	6/17/2022	$115.44	
27104	ARNOLD, KAYLA	6/17/2022	$92.35	
27105	BOBROWSKE, KURT	6/17/2022	$69.26	
27106	DRUSCH, JACOB D	6/17/2022	$217.46	
27107	MAGES, ALEX	6/17/2022	$236.71	
27108	PETERSON, JEREMY	6/17/2022	$92.35	
27109	SHEROD, JOSEPH L.	6/17/2022	$69.26	
27111	WIECH, KYLE	6/17/2022	$69.26	
27112	MILLER, EDWARD M	6/17/2022	$216.27	
27113	PRESTIDGE, HEATHER	6/17/2022	$64.97	
27114	VIRNACA, TASIA, R	6/17/2022	$180.67	
27115	BONNICK, STEVEN	6/17/2022	$499.62	
27116	STOLL, ERIC	6/17/2022	$387.30	
27117	GOEPFERT, THOMAS	7/1/2022	$517.18	
27118	MILLER, EDWARD M	7/1/2022	$253.35	
27119	PRESTIDGE, HEATHER	7/1/2022	$64.97	
27120	VIRNACA, TASIA, R	7/1/2022	$358.67	
27121	BONNICK, STEVEN	7/1/2022	$199.84	
27122	CHAFFINS, GORDON	7/1/2022	$86.58	
27123	CHRISTENSEN, THOMAS	7/1/2022	$138.52	
27124	CARGILL, ZACHARY C	7/15/2022	$150.18	

27125	GOEPFERT, THOMAS	7/15/2022	$388.58	
27126	ARNOLD, KAYLA	7/15/2022	$46.17	
27127	BOBROWSKE, KURT	7/15/2022	$23.09	
27128	DRUSCH, JACOB D	7/15/2022	$486.21	
27129	DRUSCH, JOEY	7/15/2022	$23.09	
27130	MAGES, ALEX	7/15/2022	$467.46	
27131	SHEROD, JOSEPH L.	7/15/2022	$92.35	
27132	STOLL, ERIC	7/15/2022	$446.60	
27133	WIECH, KYLE	7/15/2022	$255.96	
27134	MILLER, EDWARD M	7/15/2022	$229.51	
27135	BONNICK, STEVEN	7/15/2022	$69.94	
59361	HOWARD LAKE POSTMASTER	5/17/2022	$1,323.30	Envelopes
59362	HOWARD LAKE POSTMASTER	5/23/2022	$332.00	May UB Billing
59363	ARCTIC GLACIER ICE, INC	5/25/2022	$443.40	
59364	ASHWILL COMPANIES	5/25/2022	$23,513.59	Pay Request 3
59365	BELLBOY CORPORATION	5/25/2022	$1,942.84	
59366	BREAKTHRU BEVERAGE	5/25/2022	$264.36	
59367	CAPITOL BEVERAGE SALES	5/25/2022	$10,652.04	
59368	CARLOS CREEK WINERY	5/25/2022	$492.00	
59369	CENTERPOINT ENERGY	5/25/2022	$2,291.67	
59370	COKATO TRANSPORTATION, IN	5/25/2022	$180.00	Jared Merges
59371	CORE & MAIN	5/25/2022	$12,139.26	
59372	COURI, & RUPPE, P.L.L.P.	5/25/2022	$243.75	
59373	DAHLHEIMER BEVERAGE, LLC	5/25/2022	$1,092.97	
59374	DELANO RENTAL, INC	5/25/2022	$203.66	
59375	EARTHLINK INC	5/25/2022	$13.95	
59376	ELECTRONIC & APPLIANCE REC	5/25/2022	$602.40	
59377	FARM-RITE EQUIPMENT, INC	5/25/2022	$472.12	
59378	HAWKINS, INC	5/25/2022	$40.00	
59379	J & R WASTEWATER, INC	5/25/2022	$7,158.90	
59380	JOE'S SPORT SHOP	5/25/2022	$1,761.98	
59381	JOHNSON BROTHERS LIQUOR C	5/25/2022	$2,600.20	
59382	LOCHER BROS, INC	5/25/2022	$4,510.45	
59383	MARCO	5/25/2022	$382.64	
59384	MEDIACOM LLC	5/25/2022	$276.17	
59385	MENARDS-BUFFALO	5/25/2022	$318.51	Fan/Humidifier
59386	MIDWEST MACHINERY CO	5/25/2022	$1,020.91	
59387	MINN DEPARTMENT OF HEALTH	5/25/2022	$1,793.00	
59388	MN VALLEY TESTING LAB	5/25/2022	$44.00	
59389	MUMFORD SANITATION	5/25/2022	$581.68	
59390	MUMFORD SANITATION	5/25/2022	$11,358.14	COMPOST LEASE - May 2022
59391	536600-NCPERS GROUP LIFE IN	5/25/2022	$32.00	
59392	PAUMEN COMPUTER SERVICES	5/25/2022	$1,783.99	
59393	PGN GROUP LLC	5/25/2022	$284.27	Overpymt 1317 4th Ave HL
59394	PHILLIPS WINE & SPIRITS	5/25/2022	$2,240.94	
59395	PLUNKETT'S PEST CONTROL	5/25/2022	$173.07	
59396	SOUTHERN GLAZER WINE & SPI	5/25/2022	$736.10	
59397	STARRY ELECTRIC, INC	5/25/2022	$1,250.00	
59398	STREICHER'S	5/25/2022	$13.98	
59399	ULINE	5/25/2022	$390.35	
59400	USA BLUEBOOK	5/25/2022	$654.08	
59401	VERIZON	5/25/2022	$80.02	
59402	VIKING BEVERAGES.	5/25/2022	$226.70	
59403	VISA	5/25/2022	$3,949.18	
59404	WASTEWATER COMMISSION	5/25/2022	$31,491.93	Forsmans Discharge - November 2021

59405	WRIGHT HENNEPIN ELECTRIC	5/25/2022	$947.00	
59406	WRIGHT LUMBER & MILLWORK	5/25/2022	$170.24	
59407	BELLBOY CORPORATION	6/10/2022	$965.45	
59408	BRASS FOUNDRY BREWING CO	6/10/2022	$49.46	
59409	CAPITOL BEVERAGE SALES	6/10/2022	$2,906.75	
59410	DAHLHEIMER BEVERAGE, LLC	6/10/2022	$6,803.10	
59411	JOHNSON BROTHERS LIQUOR C	6/10/2022	$1,182.47	
59412	PHILLIPS WINE & SPIRITS	6/10/2022	$4,071.26	
59413	VINOCOPIA, INC	6/10/2022	$585.63	
59414	ADVANCED POWER SERVICES,	6/10/2022	$2,410.00	
59415	BELLBOY CORPORATION	6/10/2022	$1,606.75	
59416	KEITH BOBROWSKE	6/10/2022	$65.00	Cell Allowance-JUNE 2022
59417	C & C EMBROIDERY	6/10/2022	$196.00	
59418	CAPITOL BEVERAGE SALES	6/10/2022	$5,052.80	
59419	CENTERPOINT ENERGY	6/10/2022	$72.26	5961454-5
59420	CENTURYLINK	6/10/2022	$401.36	313687712
59421	CINTAS	6/10/2022	$291.60	
59422	CITY OF BUFFALO	6/10/2022	$0.00	ACCT#26-022950-00
59423	MARK CUSTER	6/10/2022	$4,500.00	2022 2nd Quarter Payment
59424	DAHLHEIMER BEVERAGE, LLC	6/10/2022	$5,048.40	KEG RETURN
59425	FINKEN WATER CENTERS	6/10/2022	$110.15	0401331
59426	FRONT LINE PLUS FIRE & RESC	6/10/2022	$288.10	
59427	GAME TIME	6/10/2022	$257.86	
59428	GOPHER STATE ONE-CALL, INC	6/10/2022	$76.90	
59429	GREATER MN COMMUNICATION	6/10/2022	$160.00	
59430	NICK HAGGENMILLER	6/10/2022	$365.00	Cell Allowance
59431	HALVORSON LEGAL	6/10/2022	$1,340.80	
59432	HERALD JOURNAL PUBLISHING	6/10/2022	$1,313.76	Notice-Engineer Services
59433	HOWARD LAKE TIRE & AUTO	6/10/2022	$368.16	
59434	INITIATIVE FOUNDATION	6/10/2022	$500.00	
59435	J & R WASTEWATER, INC	6/10/2022	$5,062.50	
59436	JOE'S SPORT SHOP	6/10/2022	$1,475.16	968653
59437	MYRA LAWAY	6/10/2022	$110.44	Reimbursement
59438	LOCHER BROS, INC	6/10/2022	$4,568.68	
59439	MARCO TECHNOLOGIES LLC	6/10/2022	$451.36	
59440	DEBRA MCALPINE	6/10/2022	$65.00	Car Allowance
59441	JARED MERGES	6/10/2022	$167.00	REIMBURSEMENT
59442	MIDWEST MACHINERY CO	6/10/2022	$155.66	
59443	MUNSON LAKES NUTRITION	6/10/2022	$52.60	
59444	NAPA AUTO PARTS COKATO	6/10/2022	$60.23	
59445	NELSON ELECTRIC MOTOR REP	6/10/2022	$150.00	
59446	NORTHWEST ASSOC CONSULT	6/10/2022	$728.90	
59447	JIM OTTENSTROER	6/10/2022	$65.00	Cell Allowance
59448	PHILLIPS WINE & SPIRITS	6/10/2022	$4,614.50	
59449	PIT STOP TIRE & AUTO	6/10/2022	$1,882.58	Chevy Tahoe
59450	CLAYTON PRESTIDGE	6/10/2022	$65.00	Cell Allowance
59451	AMY SHAW	6/10/2022	$35.00	Brooklyn swim lessons
59452	SOUTHERN GLAZER WINE & SPI	6/10/2022	$740.59	
59453	STREICHER'S	6/10/2022	$169.99	
59454	TACTICAL SOLUTIONS	6/10/2022	$158.00	
59455	THEISEN, MEAGAN	6/10/2022	$215.00	Cell Allowance
59456	TK ELEVATOR	6/10/2022	$504.00	
59457	T-MOBILE	6/10/2022	$191.63	ACCT#973663744
59458	VINOCOPIA, INC	6/10/2022	$114.50	
59459	WEX BANK	6/10/2022	$234.66	

59460	XCEL ENERGY	6/10/2022	$14,464.76	
59461	STANLEY, BRIDGET	6/10/2022	$65.00	CELL ALLOWANCE
59462	ARCTIC GLACIER ICE, INC	6/22/2022	$700.19	
59463	BELLBOY CORPORATION	6/22/2022	$20.09	
59464	BREAKTHRU BEVERAGE	6/22/2022	$1,862.08	
59465	C & L DISTRIBUTING	6/22/2022	$677.85	Beer
59466	CAPITOL BEVERAGE SALES	6/22/2022	$2,747.23	
59467	CARLSON WHOLESALE GREEN	6/22/2022	$1,477.40	
59468	CINTAS	6/22/2022	$824.28	
59469	CRAYLS, DUSTY	6/22/2022	$150.00	BEER TRAILER -GND
59470	HOWARD LAKE FOODS	6/22/2022	$11.25	
59471	JOHNSON BROTHERS LIQUOR C	6/22/2022	$163.50	
59472	KING OF PORTABLES CORPORA	6/22/2022	$128.85	
59473	LOCHER BROS, INC	6/22/2022	$2,293.70	
59474	MARCO	6/22/2022	$382.64	
59475	DEBRA MCALPINE	6/22/2022	$19.34	Reimbursement
59476	MEDIACOM LLC	6/22/2022	$218.17	
59477	MENARDS-BUFFALO	6/22/2022	$265.37	
59478	METRO WEST INSPECTION SER	6/22/2022	$3,018.33	
59479	MIDDLEVILLE TOWNSHIP	6/22/2022	$2,540.00	DUST CONTROL
59480	MN PEIP	6/22/2022	$15,216.28	
59481	MN VALLEY TESTING LAB	6/22/2022	$93.00	
59482	PLUNKETT'S PEST CONTROL	6/22/2022	$119.07	
59483	STAUB, ROBERT & KAREN	6/22/2022	$7.50	Refund UB over payment
59484	THEISEN, MEAGAN	6/22/2022	$65.95	Reimbursement
59485	ULINE	6/22/2022	$1,760.00	
59486	VERIZON	6/22/2022	$97.14	
59487	WRIGHT COUNTY FINANCE DEP	6/22/2022	$17,230.00	
59488	HOWARD LAKE POSTMASTER	6/23/2022	$332.00	June UB Billing
59489	ARCTIC GLACIER ICE, INC	6/24/2022	$333.24	
59490	BELLBOY CORPORATION	6/24/2022	$1,008.45	
59491	ALICIA BOLTZ	6/24/2022	$17.50	Swim lessons-E Boltz
59492	BREAKTHRU BEVERAGE	6/24/2022	$4,131.37	
59493	CAPITOL BEVERAGE SALES	6/24/2022	$6,332.05	
59494	CENTERPOINT ENERGY	6/24/2022	$1,057.28	ACCT # 8000016347-9
59495	CINTAS	6/24/2022	$123.77	
59496	CIVICPLUS	6/24/2022	$3,450.00	
59497	COURI, & RUPPE, P.L.L.P.	6/24/2022	$146.25	
59498	DAHLHEIMER BEVERAGE, LLC	6/24/2022	$6,033.15	
59499	EARTHLINK INC	6/24/2022	$13.95	
59500	HAWKINS, INC	6/24/2022	$1,777.89	
59501	JOHNSON BROTHERS LIQUOR C	6/24/2022	$2,236.58	
59502	LOCHER BROS, INC	6/24/2022	$3,499.30	
59503	MEDIACOM LLC	6/24/2022	$264.90	ACCT 8384923160090439
59504	MID-MINNESOTA HOT MIX, INC	6/24/2022	$268.80	
59505	536600-NCPERS GROUP LIFE IN	6/24/2022	$32.00	
59506	NELSON ELECTRIC MOTOR REP	6/24/2022	$150.00	
59507	PAUMEN COMPUTER SERVICES	6/24/2022	$780.00	
59508	PHILLIPS WINE & SPIRITS	6/24/2022	$1,507.60	
59509	RED BULL DISTRIBUTION CO, IN	6/24/2022	$49.00	
59510	SCHEMMEL, JONATHAN & CARO	6/24/2022	$144.24	Refund UB overpayment
59511	TIMMYS PUB CLUB, LLC	6/24/2022	$30.00	
59512	VINOCOPIA, INC	6/24/2022	$174.02	
59513	WRIGHT HENNEPIN ELECTRIC	6/24/2022	$1,058.00	
59514	HOWARD LAKE FOODS	6/24/2022	$80.81	

59515	LOCHER BROS, INC	6/24/2022	$1,639.10	
59516	PREMIUM WATERS, INC	6/24/2022	$95.15	
59517	AIR-PRO HEATING & COOLING L	6/29/2022	$535.71	
59518	BREAKTHRU BEVERAGE	6/29/2022	$4,192.16	
59519	BROSE FARMS	6/29/2022	$885.00	
59520	CR ELECTRIC	6/29/2022	$2,522.89	
59521	DAHLHEIMER BEVERAGE, LLC	6/29/2022	$4,991.75	
59522	HEIMAN FIRE EQUIPMENT, INC	6/29/2022	$2,970.00	
59523	JOE'S SPORT SHOP	6/29/2022	$2,971.71	
59524	JOHNSON BROTHERS LIQUOR C	6/29/2022	$145.25	
59525	JUUL CONTRACTING COMPANY	6/29/2022	$3,780.25	
59526	MYRA LAWAY	6/29/2022	$120.55	REIMBURSEMENT
59527	LOCHER BROS, INC	6/29/2022	$509.00	
59528	AMANDA LOEBERTMANN	6/29/2022	$1,093.84	REIMBURSEMENT
59529	MARCO	6/29/2022	$337.00	
59530	MEDIACOM LLC	6/29/2022	$216.90	
59531	METRO WEST IRRIGATION	6/29/2022	$1,322.60	
59532	MUMFORD SANITATION	6/29/2022	$11,393.41	COMPOST LEASE
59533	PAUSTIS WINE COMPANY	6/29/2022	$529.50	
59534	PHILLIPS WINE & SPIRITS	6/29/2022	$626.13	
59535	RIDGEVIEW CLINICS	6/29/2022	$79.05	
59536	RUSSELL SECURITY RESOURC	6/29/2022	$314.00	
59537	SOUTHERN GLAZER WINE & SPI	6/29/2022	$607.20	
59538	DR. MICHAEL THOENESS	6/29/2022	$200.03	REFUND UB OVERPAYMENT
59539	U.S. POSTAL SERVICE	6/29/2022	$72.00	Service Fee
59540	VERIZON	6/29/2022	$80.02	
59547	BELLBOY CORPORATION	7/14/2022	$1,235.07	
59548	BREAKTHRU BEVERAGE	7/14/2022	$2,849.84	
59549	CAPITOL BEVERAGE SALES	7/14/2022	$8,245.70	CREDIT
59550	CINTAS	7/14/2022	$123.77	
59551	DAHLHEIMER BEVERAGE, LLC	7/14/2022	$3,573.25	
59552	JOHNSON BROTHERS LIQUOR C	7/14/2022	$394.78	
59553	LOCHER BROS, INC	7/14/2022	$3,946.40	
59554	PHILLIPS WINE & SPIRITS	7/14/2022	$361.80	
59555	BIG LAKE REFRIGERATION	7/14/2022	$878.00	
59556	KEITH BOBROWSKE	7/14/2022	$65.00	Cell Allowance
59557	BOLTON & MENK, INC	7/14/2022	$72,962.50	
59558	BREAKTHRU BEVERAGE	7/14/2022	$352.83	
59559	BUREAU OF CRIM APPREHENSI	7/14/2022	$150.00	
59560	C & L DISTRIBUTING	7/14/2022	$507.20	Beer
59561	CAPITOL BEVERAGE SALES	7/14/2022	$4,986.02	
59562	CENTERPOINT ENERGY	7/14/2022	$23.52	ACCT # 5961454-5
59563	CENTURYLINK	7/14/2022	$406.20	313687712
59564	CINTAS	7/14/2022	$503.02	
59565	COLE, JOSEPH	7/14/2022	$2,482.10	REFUND UB ACCT OVERPAYMENT
59566	CONTEGRITYGROUP	7/14/2022	$20,252.24	
59567	COURI, & RUPPE, P.L.L.P.	7/14/2022	$48.75	
59568	CUSTOMIZED FIRE RESCUE TR	7/14/2022	$4,710.00	
59569	DAHLHEIMER BEVERAGE, LLC	7/14/2022	$2,156.85	
59570	ESS BROTHERS & SONS, INC	7/14/2022	$184.80	
59571	FAMILY COUNSELING CENTER	7/14/2022	$150.00	
59572	FINKEN WATER CENTERS	7/14/2022	$36.45	INV 1320506
59573	GAME TIME	7/14/2022	$1,050.18	
59574	GOPHER STATE ONE-CALL, INC	7/14/2022	$88.65	
59575	GREATER MN COMMUNICATION	7/14/2022	$160.00	

59576	NICK HAGGENMILLER	7/14/2022	$365.00	Cell Allowance
59577	HENNING EXCAVATING	7/14/2022	$10,421.00	
59578	HERALD JOURNAL PUBLISHING	7/14/2022	$109.00	
59579	JOE'S SPORT SHOP	7/14/2022	$1,690.78	
59580	JOHNS COLLISION LLC	7/14/2022	$2,526.58	2020 TAHOE
59581	JOHNSON BROTHERS LIQUOR C	7/14/2022	$2,036.98	
59582	KING OF PORTABLES CORPORA	7/14/2022	$687.20	
59583	KNIFE RIVER CORPORATION	7/14/2022	$293,212.52	PAY REQUEST #2
59584	MYRA LAWAY	7/14/2022	$86.17	Cell Allowance
59585	LEAGUE OF MN CITIES INS TRU	7/14/2022	$2,381.38	
59586	LOCHER BROS, INC	7/14/2022	$3,097.55	
59587	MARCO TECHNOLOGIES LLC	7/14/2022	$461.40	
59588	DEBRA MCALPINE	7/14/2022	$65.00	Car Allowance
59589	MENARDS-BUFFALO	7/14/2022	$210.66	
59590	JARED MERGES	7/14/2022	$65.00	Cell Allowance
59591	METRO WEST INSPECTION SER	7/14/2022	$1,798.81	
59592	MIDWEST AQUA CARE, INC	7/14/2022	$790.00	
59593	MN MUNICIPAL BEVERAGE ASS	7/14/2022	$1,200.00	DUES JULY 2021- JULY 2022
59594	MN PEIP	7/14/2022	$16,942.34	
59595	MN PLAYGROUND, INC	7/14/2022	$842.01	
59596	MSB EXCAVATING & TILING	7/14/2022	$1,640.00	CULVERT JELLINSON
59597	NAPA AUTO PARTS COKATO	7/14/2022	$10.99	
59598	NELSON ELECTRIC MOTOR REP	7/14/2022	$460.00	
59599	NORTHLAND TRUST SERVICES,	7/14/2022	$5,100.00	
59600	JIM OTTENSTROER	7/14/2022	$65.00	Cell Allowance
59601	PHILLIPS WINE & SPIRITS	7/14/2022	$504.15	
59602	PIT STOP TIRE & AUTO	7/14/2022	$1,060.52	
59603	CLAYTON PRESTIDGE	7/14/2022	$65.00	Cell Allowance
59604	STANLEY, BRIDGET	7/14/2022	$65.00	CELL ALLOWANCE
59605	STREICHER'S	7/14/2022	$3,771.72	
59606	THEISEN, MEAGAN	7/14/2022	$215.00	Cell Allowance
59607	T-MOBILE	7/14/2022	$288.30	
59608	US BANK	7/14/2022	$24,758.75	GO INCREMENT BOND 2019A
59609	VISA	7/14/2022	$5,499.65	
59610	WEX BANK	7/14/2022	$217.44	
59611	XCEL ENERGY	7/14/2022	$8,478.42	
502071e	HAGGENMILLER, NICHOLAS A	5/20/2022	$3,224.59	
502072e	MERGES, JARED M	5/20/2022	$1,956.35	
502073e	THEISEN, MEAGAN	5/20/2022	$1,826.64	
502074e	ZANDER, SHARI	5/20/2022	$1,336.66	
502075e	OTTENSTROER, JAMES D	5/20/2022	$1,581.99	
502076e	PRESTIDGE, CLAYTON P	5/20/2022	$1,469.89	
502077e	STANLEY, BRIDGET	5/20/2022	$1,112.80	
502078e	LAWAY, MYRA	5/20/2022	$1,799.03	
502079e	LINDER, EMILY	5/20/2022	$163.98	
502080e	MCALPINE, DEBRA-ANN	5/20/2022	$1,106.10	
502081e	MCALPINE, LEXI	5/20/2022	$79.42	
502082e	OTTENSTROER, MACKENZIE R	5/20/2022	$94.50	
502083e	REMER, TANYA M	5/20/2022	$124.04	
502084e	HAGLIN, SERENA P	5/20/2022	$282.02	
502085e	JOHNSON, JACOB D	5/20/2022	$1,691.46	
502086e	PREUSSE, MITCHELL D	5/20/2022	$980.98	
502087e	SZCZEPANIK, DARIUSZ J	5/20/2022	$1,925.02	
502088e	THOMPSON, DAVID G	5/20/2022	$2,126.10	
502089e	THOMPSON, KYLE	5/20/2022	$189.59	

502090e	HAGGENMILLER, NICHOLAS A	6/3/2022	$3,224.59
502091e	MERGES, JARED M	6/3/2022	$1,899.49
502092e	THEISEN, MEAGAN	6/3/2022	$1,826.64
502093e	ZANDER, SHARI	6/3/2022	$1,176.82
502094e	OTTENSTROER, JAMES D	6/3/2022	$1,679.48
502095e	PRESTIDGE, CLAYTON P	6/3/2022	$1,374.30
502096e	STANLEY, BRIDGET	6/3/2022	$1,129.77
502097e	LAWAY, MYRA	6/3/2022	$1,799.03
502098e	LINDER, EMILY	6/3/2022	$158.42
502099e	MCALPINE, DEBRA-ANN	6/3/2022	$1,024.16
502100e	OTTENSTROER, MACKENZIE R	6/3/2022	$251.24
502101e	REMER, TANYA M	6/3/2022	$118.13
502102e	HAGLIN, SERENA P	6/3/2022	$322.57
502103e	JOHNSON, JACOB D	6/3/2022	$1,691.46
502104e	PREUSSE, MITCHELL D	6/3/2022	$1,105.23
502105e	SZCZEPANIK, DARIUSZ J	6/3/2022	$1,925.02
502106e	THOMPSON, DAVID G	6/3/2022	$2,126.10
502107e	THOMPSON, KYLE	6/3/2022	$362.44
502108e	GILBERT, EMMAGENE	6/17/2022	$1,124.74
502109e	HAGGENMILLER, NICHOLAS A	6/17/2022	$3,224.59
502110e	MERGES, JARED M	6/17/2022	$1,845.42
502111e	MUNSON, ALLAN W.	6/17/2022	$1,124.74
502112e	THEISEN, MEAGAN	6/17/2022	$1,826.64
502113e	OTTENSTROER, JAMES D	6/17/2022	$1,581.99
502114e	PRESTIDGE, CLAYTON P	6/17/2022	$1,374.30
502115e	STANLEY, BRIDGET	6/17/2022	$1,112.80
502116e	SWENDSEN, JENNIFER	6/17/2022	$1,115.20
502117e	BERG, TIMOTHY W	6/17/2022	$69.26
502118e	BOBROWSKE, KEITH	6/17/2022	$184.70
502119e	DALBEC, JOSHUA S	6/17/2022	$92.35
502120e	KITTOCK, BRIAN	6/17/2022	$159.71
502121e	KITTOCK, NICOLE D	6/17/2022	$290.14
502122e	LOEBERTMANN, AMANDA G	6/17/2022	$138.52
502123e	PETERSON, DAVID T	6/17/2022	$184.70
502124e	YOKIEL, ANDREW J	6/17/2022	$69.26
502125e	LAWAY, MYRA	6/17/2022	$1,816.38
502126e	LINDER, EMILY	6/17/2022	$124.04
502127e	MCALPINE, DEBRA-ANN	6/17/2022	$1,044.65
502128e	OTTENSTROER, MACKENZIE R	6/17/2022	$241.40
502129e	REMER, TANYA M	6/17/2022	$180.15
502130e	HAGLIN, SERENA P	6/17/2022	$380.02
502131e	JOHNSON, JACOB D	6/17/2022	$1,691.46
502132e	PREUSSE, MITCHELL D	6/17/2022	$290.98
502133e	STENDER, KOREY D	6/17/2022	$109.91
502134e	SZCZEPANIK, DARIUSZ J	6/17/2022	$1,925.02
502135e	THOMPSON, DAVID G	6/17/2022	$2,126.10
502136e	THOMPSON, KYLE	6/17/2022	$103.25
502137e	HAGGENMILLER, NICHOLAS A	7/1/2022	$3,224.59
502138e	MERGES, JARED M	7/1/2022	$1,906.59
502139e	THEISEN, MEAGAN	7/1/2022	$1,826.64
502140e	OTTENSTROER, JAMES D	7/1/2022	$1,679.48
502141e	PRESTIDGE, CLAYTON P	7/1/2022	$1,565.47
502142e	STANLEY, BRIDGET	7/1/2022	$1,112.80
502143e	SWENDSEN, JENNIFER	7/1/2022	$2,184.11
502144e	DALBEC, MATTHEW R	7/1/2022	$92.35

502145e	LAWAY, MYRA	7/1/2022	$2,674.59
502146e	LINDER, EMILY	7/1/2022	$219.60
502147e	MCALPINE, DEBRA-ANN	7/1/2022	$1,085.60
502148e	MCALPINE, LEXI	7/1/2022	$120.72
502149e	OTTENSTROER, MACKENZIE R	7/1/2022	$283.21
502150e	REMER, TANYA M	7/1/2022	$156.53
502151e	ZINCHINI, TIFFANI M	7/1/2022	$77.45
502152e	HAGLIN, SERENA P	7/1/2022	$623.43
502153e	JOHNSON, JACOB D	7/1/2022	$1,839.60
502154e	PREUSSE, MITCHELL D	7/1/2022	$1,316.70
502155e	STENDER, KOREY D	7/1/2022	$607.92
502156e	SZCZEPANIK, DARIUSZ J	7/1/2022	$2,025.48
502157e	THOMPSON, DAVID G	7/1/2022	$2,126.10
502158e	THOMPSON, KYLE	7/1/2022	$150.18
502159e	HAGGENMILLER, NICHOLAS A	7/15/2022	$3,224.59
502160e	MERGES, JARED M	7/15/2022	$1,927.91
502161e	THEISEN, MEAGAN	7/15/2022	$1,826.64
502162e	OTTENSTROER, JAMES D	7/15/2022	$1,692.53
502163e	PRESTIDGE, CLAYTON P	7/15/2022	$1,416.78
502164e	STANLEY, BRIDGET	7/15/2022	$1,112.80
502165e	POUKKA, BREANNA	7/15/2022	$217.46
502166e	SWENDSEN, JENNIFER	7/15/2022	$2,184.11
502167e	BERG, TIMOTHY W	7/15/2022	$115.44
502168e	BOBROWSKE, KEITH	7/15/2022	$69.26
502169e	BRAVINDER, SETH Z	7/15/2022	$138.52
502170e	DALBEC, JOSHUA S	7/15/2022	$390.71
502171e	KITTOCK, BRIAN	7/15/2022	$236.71
502172e	KITTOCK, NICOLE D	7/15/2022	$642.92
502173e	LOEBERTMANN, AMANDA G	7/15/2022	$277.05
502174e	LOEBERTMANN, CRAIG	7/15/2022	$184.70
502175e	PETERSON, DAVID T	7/15/2022	$92.35
502176e	STUEVEN, MARK J	7/15/2022	$138.52
502177e	YOKIEL, ANDREW J	7/15/2022	$23.09
502178e	LAWAY, MYRA	7/15/2022	$1,799.03
502179e	MCALPINE, DEBRA-ANN	7/15/2022	$1,085.60
502180e	OTTENSTROER, MACKENZIE R	7/15/2022	$187.28
502181e	REMER, TANYA M	7/15/2022	$191.97
502182e	VIRNACA, TASIA, R	7/15/2022	$255.76
502183e	HAGLIN, SERENA P	7/15/2022	$319.19
502184e	JOHNSON, JACOB D	7/15/2022	$1,747.89
502185e	PREUSSE, MITCHELL D	7/15/2022	$382.50
502186e	SZCZEPANIK, DARIUSZ J	7/15/2022	$2,039.46
502187e	THOMPSON, DAVID G	7/15/2022	$2,126.10
502188e	THOMPSON, KYLE	7/15/2022	$117.33
		Total Checks	$1,082,869.49

1012 CAB - AMBULANCE

23e	CUSTOMERS-AMBULANCE	5/18/2022	$35.58	MERCH Bank Fee
24e	CUSTOMERS-AMBULANCE	5/18/2022	$5.30	Gateway Fee
25e	CUSTOMERS-AMBULANCE	5/18/2022	$589.62	Sentry Stop Payment
26e	CUSTOMERS-AMBULANCE	5/18/2022	$4.00	Return Deposit Fee
27e	CUSTOMERS-AMBULANCE	5/18/2022	$5.30	Gateway Fee
28e	CUSTOMERS-AMBULANCE	5/18/2022	$33.04	Merch Bank Fee
29e	CUSTOMERS-AMBULANCE	5/18/2022	$35.19	Gateway Fee
30e	CUSTOMERS-AMBULANCE	5/18/2022	$112.42	Gateway Fee
5873	VISA	5/25/2022	$100.00	
59541	Void	6/29/2022	$0.00	59541, 59542, 59543
59542	Void	6/29/2022	$0.00	59541, 59542, 59543
59543	Void	6/29/2022	$0.00	59541, 59542, 59543
59544	BOUNDTREE MEDICAL	6/29/2022	$115.93	
59545	JERRY'S TRANSMISSIONS SERV	6/29/2022	$6.88	
59546	JOE'S SPORT SHOP	6/29/2022	$779.44	
		Total Checks	$1,822.70	

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: Consider Accepting Various Personnel Appointments

SECTION: Consent

FROM: Meagan Theisen, Assistant City Administrator

BACKGROUND: Per statute, the City Administrator appoints and the City Council confirms employment classification as part of the official record. The following individuals are submitted for approval:

Resigned – Bridget Stanely – Public Works (FT)
Resigned – Korey Stender – HLPD (PT)
Resigned – Heather Prestidge – HLWS (PT)
Promoted – Tanya Remer – Administrative Assistant (PT)

DECISION MAKING METRICS:

FINANCIAL: Liquor positions are budgeted annually. The finance coordinator is a transition from a part time position to a full time position. Salary and benefits will need to be accounted for in the FY2023 Budget.

LEGAL: All personnel appointments are contingent upon successful background check.

STRATEGIC PLAN: Deliver High Quality, Reliable Infrastructure and Public Services

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COUNCIL ACTION REQUESTED: Approve appointments as presented.

ATTACHMENTS: N/A

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: **Consider Approving Downtown Revitalization Grant for Kelli J. Burau LLC**

SECTION: New Business

FROM: Nick Haggenmiller, City Administrator

BACKGROUND: Kelly Burau purchased 809 6th Street with the intention of renovating and establishing an office for her real-estate company, Kelli Burau Home Team/Keller Williams Realty Integrity NW. A full interior building renovation is already underway. Additionally, she intends to update the façade facing Highway 12 to include signage, awning, new windows and doors. Collectively, improvements that are eligible for funding under the City's Downtown Revitalization Grant Program.

DISCUSSION: The City has had an established Downtown Revitalization Grant since 2016. When the program was established, the $5,000 grant was in the middle of the pack for award size. Nearly 7 years later, it is now one of the smallest. Consideration should be given to increase the amount to $8,000. Skilled labor and building materials have been especially hit by supply chain and rapid rate of inflation which limit the efficacy of dollars and making projects difficult to execute.

DECISION MAKING METRICS:

FINANCIAL: $8,000 from the Downtown Revitalization Fund

LEGAL: Open

STRATEGIC PLAN:

1. Foster a Robust Business Community
   - → Support efforts that lead to a thriving mix of commercial/service/industrial businesses.

COUNCIL ACTION REQUESTED: Approve the Revitalization Grant for Burau.

ATTACHMENTS: N/A

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: Consider the Approval of Election Judges for 2022

SECTION: Consent

FROM: Meagan Theisen, Assistant City Administrator

BACKGROUND: The City Council appoints election judges. These appointments must be made and submitted to the State of Minnesota by July.

COMMENTS: The following individuals have been identified as proposed election judges for the Primary on August 9, 2022.

Head Election Judge: Traci Drake
Assistant Election Judge: Meagan Theisen

Nick Haggenmiller
Jean Schmidt
Rhonda Frey
Barb Guenigsman
Wanda Werner

Note – while these judges will likely serve for the actual General Election, the city council will be asked to act formally once again to assign judges closer to the election as well.

OPTIONS: Council may approve, deny or modify in part.

FINANCIAL IMPACT: Election judges are compensated as well as provided meals and snacks during the Election Day itself. These are budgeted expenses.

LEGAL ISSUES: The list of election judges must be submitted to Wright County and the State of Minnesota.

STAFF RECOMMENDATION: Approve the individuals listed as presented as election judges for the year 2022.

ATTACHMENTS: N/A

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: **Consider Approving MDE Library Grant Agreement**

SECTION: New Business

FROM: City Administrator Nick Haggenmiller

BACKGROUND: The City has been awarded $729,102 from the Minnesota Department of Education Library Construction Grant Program. The funds will be used to offset expenses associated with the project with a total estimated cost of $4.5 Million.

PRIOR COUNCIL ACTION:
Previously, the City Council has formally acknowledged the funds via resolution. Stipulations of the grant are well known by staff and project partners. Project design such as B3 Energy standards, prevailing wages among other clauses have been considered throughout the entire process.

The current approval sought is a formal acknowledgement of the full grant agreement. Further, council has asked to see the document when it became available. Over the last several months, city staff has worked with MDE on remaining submittals and requirements in order to draft and provide the final grant language. Council is asked to approve by simple motion.

DECISION MAKING METRICS:

FINANCIAL: The City has been awarded $729,102 to be used to offset expenses with the library construction costs.

LEGAL: The City must approve and execute the grant agreement. Funds are disbursed at the completion of the project on a reimbursement basis.

STRATEGIC PLAN: Maintain fiscally responsible city management and operations.

COUNCIL ACTION REQUESTED: Approve MDE Grant Agreement

ATTACHMENTS:

- MDE Grant Agreement

General Obligation Bond Proceeds

Grant Agreement - End Grant for the City of Howard Lake Library Project under the Library Construction Grant Program

TABLE OF CONTENTS

General Obligation Bond Proceeds

Howard Lake Library Project under the Library Construction Grant Program

THIS AGREEMENT shall be effective as of July 8, 2022, and is between City of Howard Lake a local unit of government (the "Public Entity"), and the Minnesota Department of Education (the "State Entity").

RECITALS

A. The State Entity has created and is operating a Library Construction Grant Program (the "State Program") under the authority granted by Minn. Stat. § 134.45 and all rules related to such legislation (the "State Program Enabling Legislation").

B. Under the State Program, the State Entity is authorized to provide grants that are funded with proceeds of state general obligation bonds authorized to be issued under Article XI, § 5(a) of the Minnesota Constitution.

C. Under the State Program the recipients of a grant must use such funds to perform those functions delineated in the State Program Enabling Legislation.

D. The Public Entity submitted, if applicable, a grant application to the State Entity in which the Public Entity requests a grant from the State Program the proceeds of which will be used for the purposes delineated in such grant application.

E. The Public Entity has applied to and been selected by the State Entity for a receipt of a grant from the State Program in an amount of $729,102 (the "Program Grant"), the proceeds must be used by the Public Entity to perform those functions and activities imposed by the State Entity under the State Program and, if applicable, delineated in that certain grant application (the "Grant Application") attached hereto as **Attachment V** that the Public Entity submitted to the State Entity.

F. Under the provisions contained in Minnesota Statutes, Chapter 134, the Public Entity has been given the authority to perform those functions and activities required of it under the State Program and, if applicable, delineated in Grant Application attached hereto as **Attachment V** that the Public Entity submitted to the State Entity.

G. The Public Entity's receipt and use of the Program Grant to acquire an ownership interest in and/or improve real property (the "Real Property") and, if applicable, structures situated thereon (the "Facility") will cause the Public Entity's ownership interest in all of such real property and structures to become "state bond financed property", as such term is used in Minn. Stat. § 16A.695 (the "G.O. Compliance Legislation") and in that certain "Fourth Order Amending Order of the Commissioner of Finance Relating to Use and Sale of State Bond Financed Property" executed by the Commissioner of Minnesota Management and Budget and dated July 30, 2012, as amended (the "Commissioner's Order"), even though such funds may only be a portion of the funds being used to acquire such ownership interest and/or improve such real property and structures and that such funds may be used to only acquire such ownership interest and/or improve a part of such real property and structures.

H. The Public Entity and the State Entity desire to set forth herein the provisions relating to the granting and disbursement of the proceeds of the Program Grant to the Public Entity and the operation of the Real Property and, if applicable, Facility.

IN CONSIDERATION of the grant described and other provisions in this Agreement, the parties to this Agreement agree as follows.

Article I
DEFINITIONS

Section 1.01 **Defined Terms.** As used in this Agreement, the following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined), unless the context specifically indicates otherwise:

"Agreement" - means this General Obligation Bond Proceeds Grant Agreement - End Grant for the Howard Lake Library Project under the Library Construction Grant Program, as such exists on its original date and any amendments, modifications or restatements thereof.

"Approved Debt" – means public or private debt of the Public Entity that is consented to and approved, in writing, by the Commissioner of MMB, the proceeds of which were or will used to acquire an ownership interest in or improve the Real Property and, if applicable, Facility, other than the debt on the G.O. Bonds. Approved Debt includes, but is not limited to, all debt delineated in **Attachment III** to this Agreement; provided, however, the Commissioner of MMB is not bound by any amounts delineated in such attachment unless he/she has consented, in writing, to such amounts.

"Code" - means the Internal Revenue Code of 1986, as amended from time to time, and all treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

"Commissioner of MMB" - means the commissioner of Minnesota Management and Budget, and any designated representatives thereof.

"Commissioner's Order" - means the "Fourth Order Amending Order of the Commissioner of Finance Relating to Use and Sale of State Bond Financed Property" executed by the Commissioner of Minnesota Management and Budget and dated July 30, 2012, as amended.

"Counterparty" - means any entity with which the Public Entity contracts under a Use Contract. *This definition is only needed and only applies if the Public Entity enters into an agreement with another party under which such other party will operate the Real Property, and if applicable, Facility. For all other circumstances this definition is not needed and should be ignored and treated as if it were left blank, and any reference to this term in this Agreement shall be ignored and treated as if the reference did not exist.*

"Declaration" - means a declaration, or declarations, in the form contained in **Attachment I** to this Agreement and all amendments thereto, indicating that the Public Entity's ownership interest in the Real Property and, if applicable, Facility is bond financed property within the meaning of the G.O. Compliance Legislation and is subject to certain restrictions imposed thereby.

"Event of Default" - means one or more of those events delineated in Section 2.07.

"Facility", if applicable, - means Howard Lake Library, which is located, or will be constructed and located, on the Real Property and all equipment that is a part thereof that was purchased with the proceeds of the Program Grant.

"Fair Market Value" – means either (i) the price that would be paid by a willing and qualified buyer to a willing and qualified seller as determined by an appraisal that assumes that all liens and encumbrances on the property being sold that negatively affect the value of such property, will be paid and released, or (ii) the price bid by a purchaser under a public bid procedure after reasonable public notice, with the proviso that all liens and encumbrances on the property being sold that negatively affect the value of such property, will be paid and released at the time of acquisition by the purchaser.

"G.O. Bonds" - means that portion of the state general obligation bonds issued under the authority granted in Article XI, § 5(a) of the Minnesota Constitution the proceeds of which are used to fund the Program Grant and any bonds issued to refund or replace such bonds.

"G.O. Compliance Legislation" - means Minn. Stat. § 16A.695, as it may be amended, modified or replaced from time to time unless such amendment, modification or replacement imposes an unconstitutional impairment of a contract right.

"Grant Application" – means that certain grant application attached hereto as **Attachment IV** that the Public Entity submitted to the State Entity. *This definition is only needed and only applies if the Public Entity submitted a grant application to the State Entity. If the Public Entity did not submit a grant application to the State Entity, then this definition is not needed and should be ignored and treated as if it were left blank, and any reference to this term in this Agreement shall be ignored and treated as if the reference did not exist.*

"Initial Acquisition and Betterment Costs" – means the cost to acquire the Public Entity's ownership interest in the Real Property and, if applicable, Facility if the Public Entity does not already possess the required ownership interest, and the costs of betterments of the

Real Property and, if applicable, Facility; provided, however, the Commissioner of MMB is not bound by any specific amount of such alleged costs unless he/she has consented, in writing, to such amount.

"Leased/Easement Premises" - means the real estate and structures, if any, that are leased to the Public Entity under a Real Property/Facility Lease or granted to the Public Entity under an easement. *This definition is only needed and only applies if the Public Entity's ownership interest in the Real Property, the Facility, if applicable, or both, is by way of a leasehold interest under a Real Property/Facility Lease or by way of an easement. For all other circumstances this definition is not needed and should be ignored and treated as if it were left blank, and any reference to this term in this Agreement shall be ignored and treated as if the reference did not exist.*

"Lessor/Grantor" – means the fee owner/lessor or grantor of the Leased/Easement Premises. *This definition is only needed and only applies if the Public Entity's ownership interest in the Real Property, the Facility, if applicable, or both, is by way of a leasehold interest under a Real Property/Facility Lease or by way of an easement. For all other circumstances this definition is not needed and should be ignored and treated as if it were left blank, and any reference to this term in this Agreement shall be ignored and treated as if the reference did not exist.*

"Outstanding Balance of the Program Grant" – means the portion of the Program Grant that has been disbursed to or on behalf of the Public Entity minus any portion thereof previously paid back to the Commissioner of MMB.

"Ownership Value", if any – means the value, if any, of the Public Entity's ownership interest in the Real Property and, if applicable, Facility that existed concurrent with the Public Entity's execution of this Agreement. Such value shall be established by way of an appraisal or by such other manner as may be acceptable to the State Entity and the Commissioner of MMB. The parties hereto agree and acknowledge that such value is "NOT APPLICABLE"; provided, however, the Commissioner of MMB is not bound by any inserted dollar amount unless he/she has consented, in writing, to such amount. If no dollar amount is inserted and the blank "Not Applicable" is not checked, a rebuttable presumption that the Ownership Value is $0.00 shall be created. (*The blank "Not Applicable" should only be selected and checked when a portion of the funds delineated in* ***Attachment III*** *attached hereto are to be used to acquire the Public Entity's ownership interest in the Real Property and, if applicable, Facility, and in such event the value of such ownership interest should be shown in* ***Attachment III*** *and not in this definition for Ownership Value).*

"Program Grant" - means a grant of monies from the State Entity to the Public Entity in the amount identified as the "Program Grant" in Recital E to this Agreement, as the amount thereof may be modified under the provisions contained herein.

"Project" – means the Public Entity's acquisition, if applicable, of the ownership interests in the Real Property and, if applicable, Facility denoted in Section 2.02 along with the performance of the activities denoted in Section 2.03. (*If the Public Entity is not using* *any portion of the Program Grant to acquire the ownership interest denoted in Section 2.02, then this definition for Project shall not include the acquisition of such ownership interest, and the value of such ownership interest shall not be included in **Attachment III** hereto and instead shall be included in the definition for Ownership Value under this Section.)*

"Public Entity" - means the entity identified as the "Public Entity" in the lead-in paragraph of this Agreement.

"Real Property" - means the real property located in the County of Wright County, State of Minnesota, legally described in **Attachment II** to this Agreement.

"Real Property/Facility Lease" - means a long term lease of the Real Property, the Facility, if applicable, or both by the Public Entity as lessee thereunder. *This definition is only needed and only applies if the Public Entity's ownership interest in the Real Property, the Facility, if applicable, or both, is a leasehold interest under a lease. For all other circumstances this definition is not needed and <u>should be ignored and treated as if it were left blank, and any reference to this term in this Agreement shall be ignored and treated as if the reference did not exist</u>.*

"State Entity" - means the entity identified as the "State Entity" in the lead-in paragraph of this Agreement.

"State Program" – means the program delineated in the State Program Enabling Legislation.

"State Program Enabling Legislation" – means the legislation contained in the Minnesota statute(s) delineated in Recital A and all rules related to such legislation.

"Subsequent Betterment Costs" – means the costs of betterments of the Real Property and, if applicable, Facility that occur subsequent to the date of this Agreement, are not part of the Project, would qualify as a public improvement of a capital nature (as such term in used in Minn. Constitution Art. XI, §5(a) of the Minnesota Constitution), and the cost of which has been established by way of written documentation that is acceptable to and approved, in writing, by the State Entity and the Commissioner of MMB.

"Use Contract" - means a lease, management contract or other similar contract between the Public Entity and any other entity that involves or relates to any part of the Real Property and/or, if applicable, Facility. *This definition is only needed and only applies if the Public Entity enters into an agreement with another party under which such other party will operate the Real Property, and/or if applicable, Facility. For all other circumstances this definition is not needed and <u>should be ignored and treated as if it were left blank, and any reference to this term in this Agreement shall be ignored and treated as if the reference did not exist</u>.*

"Useful Life of the Real Property and, if applicable, Facility" – means the term set forth in Section 2.05.V, which was derived as follows: (i) 30 years for Real Property that has no structure situated thereon or if any structures situated thereon will be removed, and no new structures will be constructed thereon, (ii) the remaining useful life of the Facility as of the effective date of this Agreement for Facilities that are situated on the Real Property as of the date of this Agreement, that will remain on the Real Property, and that will not be bettered, or (iii) the useful life of the Facility after the completion of the construction or betterments for Facilities that are to be constructed or bettered.

Article II
GRANT

Section 2.01 **Grant of Monies.** The State Entity shall make and issue the Program Grant to the Public Entity and disburse the proceeds in accordance with the provisions of this Agreement. The Program Grant is not intended to be a loan even though the portion thereof that is disbursed may need to be returned to the State Entity or the Commissioner of MMB under certain circumstances.

Section 2.02 **Public Ownership.** The Public Entity acknowledges and agrees that the Program Grant is being funded with the proceeds of G.O. Bonds, and as a result thereof all of the Real Property and, if applicable, Facility must be owned by one or more public entities. Such ownership may be in the form of fee ownership, a Real Property/Facility Lease, or an easement. In order to establish that this public ownership requirement is satisfied, the Public Entity represents and warrants to the State Entity that it has, or will acquire, the following ownership interests in the Real Property and, if applicable, Facility, and, in addition, that it possess, or will possess, all easements necessary for the operation, maintenance and management of the Real Property and, if applicable, Facility in the manner specified in Section 2.04:

Ownership Interest in the Real Property.

- [x] Fee simple ownership of the Real Property.

- [ ] A Real Property/Facility Lease for the Real Property that complies with the requirements contained in Section 2.06.
(If the term of the Real Property/Facility Lease is for a term authorized by a Minnesota statute, rule or session law, then insert the citation: ________________.)

- [ ] An easement for the Real Property that complies with the requirements contained in Section 2.06.
(If the term of the easement is for a term authorized by a Minnesota statute, rule or session law, then provide the citation.)

Ownership Interest in, if applicable, the Facility.

- [ ] Fee simple ownership of the Facility.

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☐ A Real Property/Facility Lease for the Facility that complies with all of the requirements contained in Section 2.06.
(If the term of the Real Property/Facility Lease is for a term authorized by a Minnesota statute, rule or session law, then provide the citation.)

☐ Not applicable because there is no Facility.

Section 2.03 **Use of Grant Proceeds.** The Public Entity shall use the Program Grant solely to reimburse itself for expenditures it has already made, or will make, in the performance of the following activities, and may not use the Program Grant for any other purpose.

☐ Acquisition of fee simple title to the Real Property.

☐ Acquisition of a leasehold interest in the Real Property.

☐ Acquisition of an easement for the Real Property.

☐ Improvement of the Real Property.

☐ Acquisition of fee simple title to the Facility.

☐ Acquisition of a leasehold interest in the Facility.

☒ Construction of the Facility.

☐ Renovation of the Facility.

☐ ____.
(Describe other or additional purposes.)

Section 2.04 **Operation of the Real Property and Facility.** The Real Property and, if applicable, Facility must be used by the Public Entity or the Public Entity must cause such Real Property and, if applicable, Facility to be used, for those purposes required by the State Program and in accordance with the information contained in the Grant Application, or for such other purposes and uses as the Minnesota legislature may from time to time designate, and for no other purposes or uses.

The Public Entity may enter into Use Contracts with Counterparties for the operation of all or any portion of the Real Property and, if applicable, Facility; provided that all such Use Contracts must have been approved, in writing, by the Commissioner of MMB and fully comply with all of the provisions contained in Sections 3.01, 3.02 and 3.03.

The Public Entity must, whether it is operating the Real Property and, if applicable, Facility or has contracted with a Counterparty under a Use Contract to operate all or any portion of the Real Property and, if applicable, Facility, annually determine that the Real Property and, if applicable, Facility is being used for the purpose required by this Agreement, and shall annually supply a statement, sworn to before a notary public, to such effect to the State Entity and the Commissioner of MMB.

For those programs, if any, that the Public Entity will directly operate on all or any portion of the Real Property and, if applicable, Facility, the Public Entity covenants with and represents and warrants to the State Entity that: (i) it has the ability and a plan to fund such programs, (ii) it has demonstrated such ability by way of a plan that it submitted to the State Entity, and (iii) it will annually adopt, by resolution, a budget for the operation of such programs that clearly shows that forecast program revenues along with other funds available for the operation of such program will be equal to or greater than forecast program expenses for each fiscal year, and will supply to the State Entity and the Commissioner of MMB certified copies of such resolution and budget.

For those programs, if any, that will be operated on all or any portion of the Real Property and, if applicable, Facility by a Counterparty under a Use Contract, the Public Entity covenants with and represents and warrants to the State Entity that: (i) it will not enter into such Use Contract unless the Counterparty has demonstrated that it has the ability and a plan to fund such program, (ii) it will require the Counterparty to provide an initial program budget and annual program budgets that clearly show that forecast program revenues along with other funds available for the operation of such program (from all sources) will be equal to or greater than forecast program expenses for each fiscal year, (iii) it will promptly review all submitted program budgets to determine if such budget clearly and accurately shows that the forecast program revenues along with other funds available for the operation of such program (from all sources) will be equal to or greater than forecast program expenses for each fiscal year, (iv) it will reject any program budget that it believes does not accurately reflect forecast program revenues or expenses or does not show that forecast program revenues along with other funds available for the operation of such program (from all sources) will be equal to or greater than forecast program expenses, and require the Counterparty to prepare and submit a revised program budget, and (v) upon receipt of a program budget that it believes accurately reflects forecast program revenues and expenses and that shows that forecast program revenues along with other funds available for the operation of such program (from all sources) will be equal to or greater than forecast program expenses, it will approve such budget by resolution and supply to the State Entity and the Commissioner of MMB certified copies of such resolution and budget.

Section 2.05 **Public Entity Representations and Warranties.** The Public Entity further covenants with, and represents and warrants to the State Entity as follows:

A. It has legal authority to enter into, execute, and deliver this Agreement, the Declaration, and all documents referred to herein, and it has taken all actions necessary to its execution and delivery of such documents.

B. It has legal authority to use the Program Grant for the purpose or purposes described in the State Program Enabling Legislation.

C. It has legal authority to operate the State Program and the Real Property and, if applicable, Facility for the purposes required by the State Program and for the functions and activities proposed in the Grant Application.

D. This Agreement, the Declaration, and all other documents referred to herein are the legal, valid and binding obligations of the Public Entity enforceable against the Public Entity in accordance with their respective terms.

E. It will comply with all of the terms, conditions, provisions, covenants, requirements, and warranties in this Agreement, the Declaration, and all other documents referred to herein.

F. It will comply with all of the provisions and requirements contained in and imposed by the G.O. Compliance Legislation, the Commissioner's Order, and the State Program.

G. It has made no material false statement or misstatement of fact in connection with its receipt of the Program Grant, and all of the information it has submitted or will submit to the State Entity or Commissioner of MMB relating to the Program Grant or the disbursement of any of the Program Grant is and will be true and correct.

H. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions, suits, or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it relating to the Real Property and, if applicable, Facility, or its ownership interest therein, and it is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair its ability to enter into this Agreement, the Declaration, or any document referred to herein, or to perform any of the acts required of it in such documents.

I. Neither the execution and delivery of this Agreement, the Declaration, or any document referred to herein nor compliance with any of the terms, conditions, requirements, or provisions contained in any of such documents is prevented by, is a breach of, or will result in a breach of, any term, condition, or provision of any agreement or document to which it is now a party or by which it is bound.

J. The contemplated use of the Real Property and, if applicable, Facility will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.

K. The Project has been or will be completed in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Project.

L. All applicable licenses, permits and bonds required for the performance and completion of the Project have been, or will be, obtained.

M. All applicable licenses, permits and bonds required for the operation of the Real Property and, if applicable, Facility in the manner specified in Section 2.04 have been, or will be, obtained.

N. It will operate, maintain, and manage the Real Property and, if applicable, Facility or cause the Real Property and, if applicable, Facility, to be operated, maintained and managed in compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over the Real Property and, if applicable, Facility.

O. It will fully enforce the terms and conditions contained in any Use Contract.

P. It has complied with the matching funds requirement, if any, contained in Section 7.23.

Q. It will not, without the prior written consent of the State Entity and the Commissioner of MMB, allow any voluntary lien or encumbrance or involuntary lien or encumbrance that can be satisfied by the payment of monies and which is not being actively contested to be created or exist against the Public Entity's ownership interest in the Real Property or, if applicable, Facility, or the Counterparty's interest in the Use Contract, whether such lien or encumbrance is superior or subordinate to the Declaration. Provided, however, the State Entity and the Commissioner of MMB will consent to any such lien or encumbrance that secures the repayment of a loan the repayment of which will not impair or burden the funds needed to operate the Real Property and, if applicable, Facility in the manner specified in Section 2.04, and for which the entire amount is used (i) to acquire additional real estate that is needed to so operate the Real Property and, if applicable, Facility in accordance with the requirements imposed under Section 2.04 and will be included in and as part of the Public Entity's ownership interest in the Real Property and, if applicable, Facility, and/or (ii) to pay for capital improvements that are needed to so operate the Real Property and, if applicable, Facility in accordance with the requirements imposed under Section 2.04.

R. It reasonably expects to possess the ownership interest in the Real Property and, if applicable, Facility described Section 2.02 for the entire Useful Life of the Real Property and, if applicable, Facility, and it does not expect to sell such ownership interest.

S. It does not reasonably expect to receive payments under a Use Contract in excess of the amount the Public Entity needs and is authorized to use to pay the operating expenses of the portion of the Real Property and, if applicable, Facility that is the subject of the Use Contract or to pay the principal, interest, redemption premiums, and other expenses on any Approved Debt.

T. It will supply, or cause to be supplied, whatever funds are needed above and beyond the amount of the Program Grant to complete and fully pay for the Project.

U. It has or will promptly record a fully executed Declaration with the appropriate governmental office and deliver a copy thereof to the State Entity and to Minnesota Management and Budget (attention: Capital Projects Manager) that contains all of the recording information.

V. The Useful Life of the Real Property and, if applicable, Facility is 50 years.

W. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested by either the State Entity or the Commissioner of MMB.

Section 2.06 **Ownership by Leasehold or Easement**. *This Section shall only apply if the Public Entity's ownership interest in the Real Property, the Facility, if applicable, or both is by way of a Real Property/Facility Lease or an easement. For all other circumstances this Section is not needed and <u>should be ignored and treated as if it were left blank, and any reference to this Section in this Agreement shall be ignored and treated as if the reference did not exist</u>.*

A. A Real Property/Facility Lease or easement must comply with the following provisions.

1. It must be in form and contents acceptable to the Commissioner of MMB, and specifically state that it may not be modified, restated, amended, changed in any way, or prematurely terminated or cancelled without the prior written consent and authorization by the Commissioner of MMB.

2. It must be for a term that is equal to or greater than 125% of the Useful Life of the Real Property and, if applicable, Facility, or such other period of time specifically authorized by a Minnesota statute, rule or session law.

3. Any payments to be made under it by the Public Entity, whether designated as rent or in any other manner, must be by way of a single lump sum payment that is due and payable on the date that it is first made and entered into.

4. It must not contain any requirements or obligations of the Public Entity that if not complied with could result in a termination thereof.

5. It must contain a provision that provides sufficient authority to allow the Public Entity to operate the Real Property and, if applicable, Facility in accordance with the requirements imposed under Section 2.04.

6. It must not contain any provisions that would limit or impair the Public Entity's operation of the Real Property and, if applicable, Facility in accordance with the requirements imposed under Section 2.04.

7. It must contain a provision that prohibits the Lessor/Grantor from creating or allowing, without the prior written consent of the State Entity and the Commissioner of MMB, any voluntary lien or encumbrance or involuntary lien or encumbrance that can be satisfied by the payment of monies and which is not being actively contested against the Leased/Easement Premises or the Lessor's/Grantor's interest in the Real Property/Facility Lease or easement, whether such lien or encumbrance is superior or subordinate to the Declaration. Provided, however, the State Entity and the Commissioner of MMB will consent to any such lien or encumbrance if the holder of such lien or encumbrance executes and files of record a document under which such holder subordinates such lien or encumbrance to the Real Property/Facility Lease or easement and agrees that upon foreclosure of such lien or encumbrance to be bound by and comply with all of the terms, conditions and covenants contained in the Real Property/Facility Lease or easement as if such holder had been an original Lessor/Grantor under the Real Property/Facility Lease or easement.

8. It must acknowledge the existence of this Agreement and contain a provision that the terms, conditions and provisions contained in this Agreement shall control over any inconsistent or contrary terms, conditions and provisions contained in the Real Property/Facility Lease or easement.

9. It must provide that any use restrictions contained therein only apply as long as the Public Entity is the lessee under the Real Property/Facility Lease or grantee under the easement, and that such use restrictions will terminate and not apply to any successor lessee or grantee who purchases the Public Entity's ownership interest in the Real Property/Facility Lease or easement. Provided, however, it may contain a provisions that limits the construction of any new structures on the Real Property or modifications of any existing structures on the Real Property without the written consent of Lessor/Grantor, which will apply to any such successor lessee or grantee.

10. It must allow for a transfer thereof in the event that the lessee under the Real Property/Lease or grantee under the easement makes the necessary determination to sell its interest therein, and allow such interest to be transferred to the purchaser of such interest.

11. It must contain a provision that prohibits and prevents the sale of the underlying fee interest in the Real Property and, if applicable, Facility without first obtaining the written consent of the Commissioner of MMB.

12 The Public Entity must be the lessee under the Real Property/Lease or grantee under the easement.

B. The provisions contained in this Section are not intended to and shall not prevent the Public Entity from including additional provisions in the Real Property/Facility Lease or easement that are not inconsistent with or contrary to the requirements contained in this Section.

C. The expiration of the term of a Real Property/Facility Lease or easement shall not be an event that requires the Public Entity to reimburse the State Entity for any portion of the Program Grant, and upon such expiration the Public Entity's ownership interest in the Real Property and, if applicable, Facility shall no longer be subject to this Agreement.

D. The Public Entity shall fully and completely comply with all of the terms, conditions and provisions contained in a Real Property/Facility Lease or easement, and shall obtain and file, in the Office of the County Recorder or the Registrar of Titles, whichever is applicable, the Real Property/Facility Lease or easement or a short form or memorandum thereof.

Section 2.07 **Event(s) of Default.** The following events shall, unless waived in writing by the State Entity and the Commissioner of MMB, constitute an Event of Default under this Agreement upon either the State Entity or the Commissioner of MMB giving the Public Entity 30 days written notice of such event and the Public Entity's failure to cure such event during such 30 day time period for those Events of Default that can be cured within 30 days or within whatever time period is needed to cure those Events of Default that cannot be cured within 30 days as long as the Public Entity is using its best efforts to cure and is making reasonable progress in curing such Events of Default, however, in no event shall the time period to cure any Event of Default exceed 6 months unless otherwise consented to, in writing, by the State Entity and the Commissioner of MMB.

A. If any representation, covenant, or warranty made by the Public Entity in this Agreement, in any other document furnished pursuant to this Agreement, or in order to induce the State Entity to disburse any of the Program Grant, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.

B. If the Public Entity fails to fully comply with any provision, term, condition, covenant, or warranty contained in this Agreement, the Declaration, or any other document referred to herein.

C. If the Public Entity fails to fully comply with any provision, term, condition, covenant, or warranty contained in the G.O. Compliance Legislation, the Commissioner's Order, or the State Program Enabling Legislation.

D. If the Public Entity fails to provide and expend the full amount of the matching funds, if any, required under Section 7.23 for the Project.

E. If the Public Entity fails to record the Declaration and deliver copies thereof as set forth in Section 2.05.U.

Notwithstanding the foregoing, any of the above delineated events that cannot be cured shall, unless waived in writing by the State Entity and the Commissioner of MMB, constitute an Event of Default under this Agreement immediately upon either the State Entity or the Commissioner of MMB giving the Public Entity written notice of such event.

Section 2.08 **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter until such Event of Default is cured to the satisfaction of the State Entity, the State Entity or the Commissioner of MMB may enforce any or all of the following remedies.

A. The State Entity may refrain from disbursing the Program Grant; provided, however, the State Entity may make such disbursements after the occurrence of an Event of Default without thereby waiving its rights and remedies hereunder.

B. If the Event of Default involves a failure to comply with any of the provisions contained herein other than the provisions contained in Sections 4.01 or 4.02, then the Commissioner of MMB, as a third party beneficiary of this Agreement, may demand that the Outstanding Balance of the Program Grant be returned to it, and upon such demand the Public Entity shall return such amount to the Commissioner of MMB.

C. If the Event of Default involves a failure to comply with the provisions contained in Sections 4.01 or 4.02, then the Commissioner of MMB, as a third party beneficiary of this Agreement, may demand that the Public Entity pay the amounts that would have been paid if there had been full and complete compliance with such provisions, and upon such demand the Public Entity shall pay such amount to the Commissioner of MMB.

D. Either the State Entity or the Commissioner of MMB, as a third party beneficiary of this Agreement, may enforce any additional remedies they may have in law or equity.

The rights and remedies herein specified are cumulative and not exclusive of any rights or remedies that the State Entity or the Commissioner of MMB would otherwise possess.

If the Public Entity does not repay the amounts required to be paid under this Section or under any other provision contained in this Agreement within 30 days of demand by the Commissioner of MMB, or any amount ordered by a court of competent jurisdiction within 30 days of entry of judgment against the Public Entity and in favor of the State Entity and/or the Commissioner of MMB, then such amount may, unless precluded by law, be taken from or off-set against any aids or other monies that the Public Entity is entitled to receive from the State of Minnesota.

Section 2.09 **Notification of Event of Default.** The Public Entity shall furnish to the State Entity and the Commissioner of MMB, as soon as possible and in any event within 7 days after it has obtained knowledge of the occurrence of each Event of Default or each event which with the giving of notice or lapse of time or both would constitute an Event of Default, a statement setting forth details of each Event of Default or event which with the giving of notice or upon the lapse of time or both would constitute an Event of Default and the action which the Public Entity proposes to take with respect thereto.

Section 2.10 **Survival of Event of Default.** This Agreement shall survive any and all Events of Default and remain in full force and effect even upon the payment of any amounts due under this Agreement, and shall only terminate in accordance with the provisions contained in Section 2.12 and at the end of its term in accordance with the provisions contained in Section 2.11.

Section 2.11 **Term of Grant Agreement.** This Agreement shall, unless earlier terminated in accordance with any of the provisions contained herein, remain in full force and effect for the time period starting on the effective date hereof and ending on the date that corresponds to the date established by adding a time period equal to 125% of Useful Life of the Real Property and, if applicable, Facility to the date on which the Real Property and, if applicable, Facility is first used for the operation of the State Program after such effective date. If there are no uncured Events of Default as of such date this Agreement shall terminate and no longer be of any force or effect, and the Commissioner of MMB shall execute whatever documents are needed to release the Real Property and, if applicable, Facility from the effect of this Agreement and the Declaration.

Section 2.12 **Modification and/or Early Termination of Grant.** If the full amount of the Program Grant has not been disbursed on or before the date that is 5 years from the effective date of this Agreement, or such later date to which the Public Entity and the State Entity may agree in writing, then the State Entity's obligation to fund the Program Grant shall terminate. In such event, (i) if none of the Program Grant has been disbursed by such date then the State Entity's obligation to fund any portion of the Program Grant shall terminate and this Agreement shall terminate and no longer be of any force or effect, and (ii) if some but not all of the Program Grant has been disbursed by such date then the State Entity shall have no further obligation to provide any additional funding for the Program Grant and this Agreement shall remain in full force and effect but shall be modified and amended to reflect the amount of the Program Grant that was actually disbursed as of such date.

This Agreement shall also terminate and no longer be of any force or effect upon the Public Entity's sale of its ownership interest in the Real Property and, if applicable, Facility in accordance with the provisions contained in Section 4.01 and transmittal of all or a portion of the proceeds of such sale to the Commissioner of MMB in compliance with the provisions contained in Section 4.02, or upon the termination of Public Entity's ownership interest in the Real Property and, if applicable, Facility if such ownership interest is by way of an easement or under a Real Property/Facility Lease. Upon such termination the State Entity shall execute, or have executed, and deliver to the Public Entity such documents as are required to release the Public Entity's ownership interest in the Real Property and, if applicable, Facility, from the effect of this Agreement and the Declaration.

Section 2.13 **Excess Funds.** If the full amount of the Program Grant and any matching funds referred to in Section 7.23 are not needed to complete the Project, then, unless language in the State Program Enabling Legislation indicates otherwise, the Program Grant shall be reduced by the amount not needed.

Article III
USE CONTRACTS

This Article III and its contents is only needed and only applies if the Public Entity enters into an agreement with another party under which such other party will operate any portion of the Real Property, and if applicable, Facility. For all other circumstances this Article III and its contents are not needed and should be ignored and treated as if it were left blank, and any reference to this Article III, its contents, and the term Use Contract in this Agreement shall be ignored and treated as if the references did not exist.

Section 3.01 **General Provisions.** If the Public Entity has statutory authority to enter into a Use Contract, then it may enter into Use Contracts for various portions of the Real Property and, if applicable, Facility; provided that each and every Use Contract that the Public Entity enters into must comply with the following requirements:

A. The purpose for which it was entered into must be to operate the State Program in the Real Property and, if applicable, Facility.

B. It must contain a provision setting forth the statutory authority under which the Public Entity is entering into such contract, and must comply with the substantive and procedural provisions of such statute.

C. It must contain a provision stating that it is being entered into in order for the Counterparty to operate the State Program and must describe such program.

D. It must contain a provision that will provide for oversight by the Public Entity. Such oversight may be accomplished by way of a provision that will require the Counterparty to provide to the Public Entity: (i) an initial program evaluation report for the first fiscal year that the Counterparty will operate the State Program, (ii) program budgets for each succeeding fiscal year showing that forecast program revenues and additional revenues available for the operation of the State Program (from all sources) by the Counterparty will equal or exceed expenses for such operation for each succeeding fiscal year, and (iii) a mechanism under which the Public Entity will annually determine that the Counterparty is using the portion of the Real Property and, if applicable, Facility that is the subject of the Use Contract to operate the State Program.

E. It must allow for termination by the Public Entity in the event of a default thereunder by the Counterparty, or in the event that the State Program is terminated or changed in a manner that precludes the operation of such program in the portion of the Real Property and, if applicable, Facility that is the subject of the Use Contract.

F. It must terminate upon the termination of the statutory authority under which the Public Entity is operating the State Program.

G. It must require the Counterparty to pay all costs of operation and maintenance of that portion of the Real Property and, if applicable, Facility that is the subject of the Use

Contract, unless the Public Entity is authorized by law to pay such costs and agrees to pay such costs.

H. If the Public Entity pays monies to a Counterparty under a Use Contract, such Use Contract must meet the requirements of Rev. Proc. 97-13, 1997-1 CB 632, so that such Use Contract does not result in "private business use" under Section 141(b) of the Code.

I. It must be approved, in writing, by the Commissioner of MMB, and any Use Contract that is not approved, in writing, by the Commissioner of MMB shall be null and void and of no force or effect.

J. It must contain a provision requiring that each and every party thereto shall, upon direction by the Commissioner of MMB, take such actions and furnish such documents to the Commissioner of MMB as the Commissioner of MMB determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal income taxation.

K. It must contain a provision that prohibits the Counterparty from creating or allowing, without the prior written consent of the State Entity and the Commissioner of MMB, any voluntary lien or encumbrance or involuntary lien or encumbrance that can be satisfied by the payment of monies and which is not being actively contested against the Real Property or, if applicable, Facility, the Public Entity's ownership interest in the Real Property or, if applicable, Facility, or the Counterparty's interest in the Use Contract, whether such lien or encumbrance is superior or subordinate to the Declaration. Provided, however, the State Entity and the Commissioner of MMB will consent, in writing, to any such lien or encumbrance that secures the repayment of a loan the repayment of which will not impair or burden the funds needed to operate the portion of the Real Property and, if applicable, Facility that is the subject of the Use Contract in the manner specified in Section 2.04 and for which the entire amount is used (i) to acquire additional real estate that is needed to so operate the Real Property and, if applicable, Facility in accordance with the requirements imposed under Section 2.04 and will be included in and as part of the Public Entity's ownership interest in the Real Property and, if applicable, Facility, and/or (ii) to pay for capital improvements that are needed to so operate the Real Property and, if applicable, Facility in accordance with the requirements imposed under Section 2.04.

L. If the amount of the Program Grant exceeds $200,000.00, then it must contain a provision requiring the Counterparty to list any vacant or new positions it may have with state workforce centers as required by Minn. Stat. § 116L.66, as it may be amended, modified or replaced from time to time, for the term of the Use Contract.

M. It must contain a provision that clearly states that the Public Entity is not required to renew the Use Contract beyond the original term thereof and that the Public Entity may, at its sole option and discretion, allow the Use Contract to expire at the end of its original term and thereafter directly operate the governmental program in the Real Property and, if applicable, Facility or contract with some other entity to operate the governmental program in the Real Property and, if applicable, Facility.

Section 3.02 **Initial Term and Renewal.** The initial term for a Use Contract may not exceed the lesser of (i) 50% of the Useful Life of the Real Property and, if applicable, Facility for the portion of the Real Property and, if applicable, Facility that is the subject of the Use Contract, or (ii) the shortest term of the Public Entity's ownership interest in the Real Property and, if applicable, Facility.

A Use Contract may allow for renewals beyond its initial term on the conditions that (a) the term of any renewal may not exceed the initial term, (b) the Public Entity must make a determination that renewal will continue to carry out the State Program and that the Counterparty is suited and able to perform the functions contained in Use Contract that is to be renewed, (c) the Use Contract may not include any provisions that would require, either directly or indirectly, the Public Entity to either make the determination referred to in this Section or to renew the Use Contract with the Counterparty after the expiration of the initial term or any renewal term, and (d) no such renewal may occur prior to the date that is 6 months prior to the date on which the Use Contract is scheduled to terminate. Provided, however, notwithstanding anything to the contrary contained herein the Public Entity's voluntary agreement to reimburse the Counterparty for any investment that the Counterparty provided for the acquisition or betterment of the Real Property and, if applicable, Facility that is the subject of the Use Contract if the Public Entity does not renew a Use Contract if requested by the Counterparty is not deemed to be a provision that directly or indirectly requires the Public Entity to renew such Use Contract.

Section 3.03 **Reimbursement of Counterparty.** A Use Contract may but need not contain, at the sole option and discretion of the Public Entity, a provision that requires the Public Entity to reimburse the Counterparty for any investment that the Counterparty provided for the acquisition or betterment of the Real Property and, if applicable, Facility that is the subject of the Use Contract if the Public Entity does not renew a Use Contract if requested by the Counterparty. If agreed to by the Public Entity, such reimbursement shall be on terms and conditions agreed to by the Public Entity and the Counterparty.

Section 3.04 **Receipt of Monies Under a Use Contract.** The Public Entity does not anticipate the receipt of any funds under a Use Contract, provided, however, if the Public Entity does receive any monies under a Use Contract in excess of the amount the Public Entity needs and is authorized to use to pay the operating expenses of the portion of the Real Property and, if applicable, Facility that is the subject of a Use Contract, and to pay the principal, interest, redemption premiums, and other expenses on Approved Debt, then a portion of such excess monies must be paid by the Public Entity to the Commissioner of MMB. The portion of such excess monies that the Public Entity must and shall pay to the Commissioner of MMB shall be determined by the Commissioner of MMB, and absent circumstances which would indicate otherwise such portion shall be determined by multiplying such excess monies by a fraction the numerator of which is the Program Grant and the denominator of which is sum of the Program Grant and the Approved Debt.

Article IV
SALE

Section 4.01 **Sale.** The Public Entity shall not sell any part of its ownership interest in the Real Property and, if applicable, Facility unless all of the following provisions have been complied with fully.

A. The Public Entity determines, by official action, that such ownership interest is no longer usable or needed for the operation of the State Program, which such determination may be based on a determination that the portion of the Real Property or, if applicable, Facility to which such ownership interest applies is no longer suitable or financially feasible for such purpose.

B. The sale is made as authorized by law.

C. The sale is for Fair Market Value.

D. The written consent of the Commissioner of MMB has been obtained.

The acquisition of the Public Entity's ownership interest in the Real Property and, if applicable, Facility at a foreclosure sale, by acceptance of a deed-in-lieu of foreclosure, or enforcement of a security interest in personal property used in the operation thereof, by a lender that has provided monies for the acquisition of the Public Entity's ownership interest in or betterment of the Real Property and, if applicable, Facility shall not be considered a sale for the purposes of this Agreement if after such acquisition the lender operates such portion of the Real Property and, if applicable, Facility in a manner which is not inconsistent with the requirements imposed under Section 2.04 and the lender uses its best efforts to sell such acquired interest to a third party for Fair Market Value. The lender's ultimate sale or disposition of the acquired interest in the Real Property and, if applicable, Facility shall be deemed to be a sale for the purposes of this Agreement, and the proceeds thereof shall be disbursed in accordance with the provisions contained in Section 4.02.

The Public Entity may participate in any public auction of its ownership interest in the Real Property and, if applicable, Facility and bid thereon; provided that the Public Entity agrees that if it is the successful purchaser it will not use any part of the Real Property or, if applicable, Facility for the State Program.

Section 4.02 **Proceeds of a Sale.** Upon the sale of the Public Entity's ownership interest in the Real Property and, if applicable, Facility the proceeds thereof after the deduction of all costs directly associated and incurred in conjunction with such sale and such other costs that are approved, in writing, by the Commissioner of MMB, but not including the repayment of any debt associated with the Public Entity's ownership interest in the Real Property and, if applicable, Facility, shall be disbursed in the following manner and order.

A. The first distribution shall be to the Commissioner of MMB in an amount equal to the Outstanding Balance of the Program Grant, and if the amount of such net proceeds shall be less than the amount of the Outstanding Balance of the Program Grant then all of such net proceeds shall be distributed to the Commissioner of MMB.

B. The remaining portion, after the distribution specified in Section 4.02.A, shall be distributed to (i) pay in full any outstanding Approved Debt, (ii) reimburse the Public Entity for its Ownership Value, and (iii) to pay interested public and private entities, other than any such entity that has already received the full amount of its contribution (such as the State Entity under Section 4.02.A and the holders of Approved Debt paid under this Section 4.02.B), the amount of money that such entity contributed to the Initial Acquisition and Betterment Costs and the Subsequent Betterment Costs. If such remaining portion is not sufficient to reimburse interested public and private entities for the full amount that such entities contributed to the acquisition or betterment of the Real Property and, if applicable, Facility, then the amount available shall be distributed as such entities may agree in writing, and if such entities cannot agree by an appropriately issued court order.

C. The remaining portion, after the distributions specified in Sections 4.02.A and B, shall be divided and distributed to the State Entity, the Public Entity, and any other public and private entity that contributed funds to the Initial Acquisition and Betterment Costs and the Subsequent Betterment Costs, other than lenders who supplied any of such funds, in proportion to the contributions that the State Entity, the Public Entity, and such other public and private entities made to the acquisition and betterment of the Real Property and, if applicable, Facility as such amounts are part of the Ownership Value, Initial Acquisition and Betterment Costs, and Subsequent Betterment Costs.

The distribution to the State Entity shall be made to the Commissioner of MMB, and the Public Entity may direct its distribution to be made to any other entity including, but not limited to, a Counterparty.

All amounts to be disbursed under this Section 4.02 must be consented to, in writing, by the Commissioner of MMB, and no such disbursements shall be made without such consent.

The Public Entity shall not be required to pay or reimburse the State Entity or the Commissioner of MMB for any funds above and beyond the full net proceeds of such sale, even if such net proceeds are less than the amount of the Outstanding Balance of the Program Grant.

Article V
COMPLIANCE WITH G.O. COMPLIANCE LEGISLATION AND THE COMMISSIONER'S ORDER

Section 5.01 **State Bond Financed Property**. The Public Entity and the State Entity acknowledge and agree that the Public Entity's ownership interest in the Real Property and, if applicable, Facility is, or when acquired by the Public Entity will be, "state bond financed property", as such term is used in the G.O. Compliance Legislation and the Commissioner's Order, and, therefore, the provisions contained in such statute and order apply, or will apply, to the Public Entity's ownership interest in the Real Property and, if applicable, Facility and any Use Contracts relating thereto.

Section 5.02 **Preservation of Tax Exempt Status.** In order to preserve the tax-exempt status of the G.O. Bonds, the Public Entity agrees as follows:

A. It will not use the Real Property or, if applicable, Facility, or use or invest the Program Grant or any other sums treated as "bond proceeds" under Section 148 of the Code including "investment proceeds," "invested sinking funds," and "replacement proceeds," in such a manner as to cause the G.O. Bonds to be classified as "arbitrage bonds" under Section 148 of the Code.

B. It will deposit into and hold all of the Program Grant that it receives under this Agreement in a segregated non-interest bearing account until such funds are used for payments for the Project in accordance with the provisions contained herein.

C. It will, upon written request, provide the Commissioner of MMB all information required to satisfy the informational requirements set forth in the Code including, but not limited to, Sections 103 and 148 thereof, with respect to the G.O. Bonds.

D. It will, upon the occurrence of any act or omission by the Public Entity or any Counterparty, that could cause the interest on the G.O. Bonds to no longer be tax exempt and upon direction from the Commissioner of MMB, take such actions and furnish such documents as the Commissioner of MMB determines to be necessary to ensure that the interest to be paid on the G.O. Bonds is exempt from federal taxation, which such action may include either: (i) compliance with proceedings intended to classify the G.O. Bonds as a "qualified bond" within the meaning of Section 141(e) of the Code, (ii) changing the nature or terms of the Use Contract so that it complies with Revenue Procedure 97-13, as amended by Rev. Proc 2016-44 and Rev. Proc. 2017-13, or (iii) changing the nature of the use of the Real Property or, if applicable, Facility so that none of the net proceeds of the G.O. Bonds will be used, directly or indirectly, in an "unrelated trade or business" or for any "private business use" (within the meaning of Sections 141(b) and 145(a) of the Code), or (iv) compliance with other Code provisions, regulations, or revenue procedures which amend or supersede the foregoing.

E. It will not otherwise use any of the Program Grant, including earnings thereon, if any, or take or permit to or cause to be taken any action that would adversely affect the exemption from federal income taxation of the interest on the G.O. Bonds, nor omit to take any action necessary to maintain such tax exempt status, and if it should take, permit, omit to take, or cause to be taken, as appropriate, any such action, it shall take all lawful actions necessary to rescind or correct such actions or omissions promptly upon having knowledge thereof.

Section 5.03 **Changes to G.O. Compliance Legislation or the Commissioner's Order.** In the event that the G.O. Compliance Legislation or the Commissioner's Order is amended in a manner that reduces any requirement imposed against the Public Entity, or if the Public Entity's ownership interest in the Real Property or, if applicable, Facility is exempt from the G.O. Compliance Legislation and the Commissioner's Order, then upon written request by the Public

Entity the State Entity shall enter into and execute an amendment to this Agreement to implement herein such amendment to or exempt the Public Entity's ownership interest in the Real Property and, if applicable, Facility from the G.O. Compliance Legislation or the Commissioner's Order.

Article VI
DISBURSEMENT OF GRANT PROCEEDS

Section 6.01 **Disbursement of Grant.** Upon compliance with all of the conditions delineated in Section 6.02, the State Entity shall disburse the Program Grant to the Public Entity in one lump sum. Under no circumstance shall the State Entity be required to disburse funds in excess of the amount requested by the Public Entity under the provisions contained in Section 6.02.A even if the amount requested is less than the amount of the Program Grant delineated in Section 1.01. If the amount of Program Grant that the State Entity disburses hereunder to the Public Entity is less than the amount of the Program Grant delineated in Section 1.01, then the State Entity and the Public Entity shall enter into and execute whatever documents the State Entity may request in order to amend or modify this Agreement to reduce the amount of the Program Grant to the amount actually disbursed. Provided, however, in accordance with the provisions contained in Section 2.11, the State Entity's obligation to disburse any of the Program Grant shall terminate as of the date specified in such Section even if the entire Program Grant has not been disbursed by such date.

The Program Grant shall only be for expenses that (i) are for those items of a capital nature for the Project, (ii) accrued no earlier than the effective date of the legislation that appropriated the funds that are used to fund the Program Grant, or (iii) have otherwise been consented to, in writing, by the State Entity and the Commissioner of MMB.

Section 6.02 **Conditions Precedent to Disbursement of Grant.** The obligation of the State Entity to disburse the Program Grant to the Public Entity is subject to the following conditions precedent:

A. The State Entity shall have received a request for disbursement of the Program Grant specifying the amount of funds being requested, which such amount shall not exceed the amount of the Program Grant delineated in Section 1.01.

B. The State Entity shall have received a duly executed Declaration that has been duly recorded in the appropriate governmental office, with all of the recording information displayed thereon.

C. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that (i) the Public Entity has legal authority to and has taken all actions necessary to enter into this Agreement and the Declaration, and (ii) this Agreement and the Declaration are binding on and enforceable against the Public Entity.

D. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity has fully and completely paid for the Project and all other expenses that may occur in conjunction therewith.

E. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity is in compliance with the matching funds requirements, if any, contained in Section 7.23 and that all of such matching funds, if any, have been expended for the Project.

F. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, showing that the Public Entity possesses the ownership interest delineated in Section 2.02.

G. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Real Property and, if applicable, Facility and the contemplated use thereof are permitted by and will comply with all applicable use or other restrictions and requirements imposed by applicable zoning ordinances or regulations, and, if required by law, have been duly approved by the applicable municipal or governmental authorities having jurisdiction thereover.

H. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that that all applicable and required building permits, other permits, bonds and licenses necessary for the Project have been paid for, issued, and obtained, other than those permits, bonds and licenses which may not lawfully be obtained until a future date or those permits, bonds and licenses which in the ordinary course of business would normally not be obtained until a later date.

I. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that that all applicable and required permits, bonds and licenses necessary for the operation of the Real Property and, if applicable, Facility in the manner specified in Section 2.04 have been paid for, issued, and obtained, other than those permits, bonds and licenses which may not lawfully be obtained until a future date or those permits, bonds and licenses which in the ordinary course of business would normally not be obtained until a later date.

J. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Project was completed in a manner that will allow the Real Property and, if applicable, Facility to be operated in the manner specified in Section 2.04, which requirement may be satisfied by a certificate of occupancy or such other equivalent document from the municipality in which the Real Property is located.

K. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the Public Entity has the ability and a plan to fund the operation of the Real Property and, if applicable, Facility in the manner specified in Section 2.04.

L. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, that the insurance requirements under Section 7.01 have been satisfied.

M. The State Entity shall have received evidence, in form and substance acceptable to the State Entity, of compliance with the provisions and requirements specified in Section 7.10 and all additional applicable provisions and requirements, if any, contained in Minn. Stat. § 16B.335, as it may be amended, modified or replaced from time to time. Such evidence shall include, but not be limited to, evidence that: (i) the predesign package referred to in Section 7.10.B has, if required, been reviewed by and received a favorable recommendation from the Commissioner of Administration for the State of Minnesota, (ii) the program plan and cost estimates referred to in Section 7.10.C have, if required, received a recommendation by the Chairs of the Minnesota State Senate Finance Committee and Minnesota House of Representatives Ways and Means Committee, and (iii) the Chair and Ranking Minority Member of the Minnesota House of Representatives Capital Investment Committee and the Chair and Ranking Minority Member of the Minnesota Senate Capital Investment Committee have, if required, been notified pursuant to Section 7.10.G.

N. No Event of Default under this Agreement or event which would constitute an Event of Default but for the requirement that notice be given or that a period of grace or time elapse shall have occurred and be continuing.

O. The Public Entity has supplied to the State Entity all other items that the State Entity may reasonably require.

Article VII
MISCELLANEOUS

Section 7.01 **Insurance.** The Public Entity shall, upon acquisition of the ownership interest delineated in Section 2.02, insure the Facility, if such exists, in an amount equal to the full insurable value thereof (i) by self insuring under a program of self insurance legally adopted, maintained and adequately funded by the Public Entity, or (ii) by way of builders risk insurance and fire and extended coverage insurance with a deductible in an amount acceptable to the State Entity under which the State Entity and the Public Entity are named as loss payees. If damages which are covered by such required insurance occur, then the Public Entity shall, at its sole option and discretion, either: (y) use or cause the insurance proceeds to be used to fully or partially repair such damage and to provide or cause to be provided whatever additional funds that may be needed to fully or partially repair such damage, or (z) sell its ownership interest in the damaged Facility and portion of the Real Property associated therewith in accordance with the provisions contained in Section 4.01.

If the Public Entity elects to only partially repair such damage, then the portion of the insurance proceeds not used for such repair shall be applied in accordance with the provisions contained in Section 4.02 as if the Public Entity's ownership interest in the Real Property and Facility had been sold, and such amounts shall be credited against the amounts due and owing under Section 4.02 upon the ultimate sale of the Public Entity's ownership interest in the Real Property and Facility. If the Public Entity elects to sell its ownership interest in the damaged Facility and portion of the Real Property associated therewith, then such sale must occur within a reasonable time period from the date the damage occurred and the cumulative sum of the insurance proceeds plus the proceeds of such sale must be applied in accordance with the provisions contained in Section 4.02, with the insurance proceeds being so applied within a reasonable time period from the date they are received by the Public Entity.

The State Entity agrees to and will assign or pay over to the Public Entity all insurance proceeds it receives so that the Public Entity can comply with the requirements that this Section imposes thereon as to the use of such insurance proceeds.

If the Public Entity elects to maintain general comprehensive liability insurance regarding the Real Property and, if applicable, Facility, then the Public Entity shall have the State Entity named as an additional named insured therein.

The Public Entity may require a Counterparty to provide and maintain any or all of the insurance required under this Section; provided that the Public Entity continues to be responsible for the providing of such insurance in the event that the Counterparty fails to provide or maintain such insurance.

At the written request of either the State Entity or the Commissioner of MMB, the Public Entity shall promptly furnish to the requesting entity all written notices and all paid premium receipts received by the Public Entity regarding the required insurance, or certificates of insurance evidencing the existence of such required insurance.

If the Public Entity fails to provide and maintain the insurance required under this Section, then the State Entity may, at its sole option and discretion, obtain and maintain insurance of an equivalent nature, and any funds expended by the State Entity to obtain or maintain such insurance shall be due and payable on demand by the State Entity and bear interest from the date of advancement by the State Entity at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per annum based upon a 365-day year. Provided, however, nothing contained herein, including but not limited to this Section, shall require the State Entity to obtain or maintain such insurance, and the State Entity's decision to not obtain or maintain such insurance shall not lessen the Public Entity's duty to obtain and maintain such insurance.

Section 7.02 **Condemnation.** If after the Public Entity has acquired the ownership interest delineated in Section 2.02 all or any portion of the Real Property and, if applicable, Facility is condemned to an extent that the Public Entity can no longer comply with the provisions contained in Section 2.04, then the Public Entity shall, at its sole option and discretion, either: (i) use or cause the condemnation proceeds to be used to acquire an interest in additional real property needed for the Public Entity to continue to comply with the provisions contained in Section 2.04 and, if applicable, to fully or partially restore the Facility, and to provide or cause to be provided whatever additional funds that may be needed for such purposes, or (ii) sell the remaining portion of its ownership interest in the Real Property and, if applicable, Facility in accordance with the provisions contained in Section 4.01. Any condemnation proceeds which are not used to acquire an interest in additional real property or to restore, if applicable, the Facility shall be applied in accordance with the provisions contained in Section 4.02 as if the Public Entity's ownership interest in the Real Property and, if applicable, Facility had been sold, and such amounts shall be credited against the amounts due and owing under Section 4.02 upon the ultimate sale of the Public Entity's ownership interest in the remaining Real Property and, if applicable, Facility. If the Public

Entity elects to sell its ownership interest in the portion of the Real Property and, if applicable, Facility that remains after the condemnation, then such sale must occur within a reasonable time period from the date the condemnation occurred and the cumulative sum of the condemnation proceeds plus the proceeds of such sale must be applied in accordance with the provisions contained in Section 4.02, with the condemnation proceeds being so applied within a reasonable time period from the date they are received by the Public Entity.

As recipient of any of condemnation awards or proceeds referred to herein, the State Entity agrees to and will disclaim, assign or pay over to the Public Entity all of such condemnation awards or proceeds it receives so that the Public Entity can comply with the requirements that this Section imposes upon the Public Entity as to the use of such condemnation awards or proceeds.

Section 7.03 **Use, Maintenance, Repair and Alterations.** The Public Entity shall (i) keep the Real Property and, if applicable, Facility, in good condition and repair, subject to reasonable and ordinary wear and tear, (ii) complete promptly and in good and workmanlike manner any building or other improvement which may be constructed on the Real Property and promptly restore in like manner any portion of the Facility, if applicable, which may be damaged or destroyed thereon and pay when due all claims for labor performed and materials furnished therefor, (iii) comply with all laws, ordinances, regulations, requirements, covenants, conditions and restrictions now or hereafter affecting the Real Property or, if applicable, Facility, or any part thereof, or requiring any alterations or improvements thereto, (iv) keep and maintain abutting grounds, sidewalks, roads, parking and landscape areas in good and neat order and repair, (v) comply with the provisions of any Real Property/Facility Lease if the Public Entity's ownership interest in the Real Property and, if applicable, Facility, is a leasehold interest, (vi) comply with the provisions of any easement if its ownership interest in the Real Property and, if applicable, Facility is by way of such easement, and (vii) comply with the provisions of any condominium documents and any applicable reciprocal easement or operating agreements if the Real Property and, if applicable, Facility, is part of a condominium regime or is subject to a reciprocal easement or use contract.

The Public Entity shall not, without the written consent of the State Entity and the Commissioner of MMB, (a) permit or suffer the use of any of the Real Property or, if applicable, Facility, for any purpose other than the purposes specified in Section 2.04, (b) remove, demolish or substantially alter any of the Real Property or, if applicable, Facility, except such alterations as may be required by laws, ordinances or regulations or such other alterations as may improve such Real Property or, if applicable, Facility by increasing the value thereof or improving its ability to be used to operate the State Program thereon or therein, (c) do any act or thing which would unduly impair or depreciate the value of the Real Property or, if applicable, Facility, (d) abandon the Real Property or, if applicable, Facility, (e) commit or permit any waste or deterioration of the Real Property or, if applicable, Facility, (f) remove any fixtures or personal property from the Real Property or, if applicable, Facility, that was paid for with the proceeds of the Program Grant unless the same are immediately replaced with like property of at least equal value and utility, or (g) commit, suffer or permit any act to be done in or upon the Real Property or, if applicable, Facility, in violation of any law, ordinance or regulation.

If the Public Entity fails to maintain the Real Property and, if applicable, Facility in accordance with the provisions contained in this Section, then the State Entity may perform whatever acts and expend whatever funds that are necessary to so maintain the Real Property and, if applicable, Facility and the Public Entity irrevocably authorizes and empowers the State Entity to enter upon the Real Property and, if applicable, Facility, to perform such acts as may to necessary to so maintain the Real Property and, if applicable, Facility. Any actions taken or funds expended by the State Entity hereunder shall be at its sole option and discretion, and nothing contained herein, including but not limited to this Section, shall require the State Entity to take any action, incur any expense, or expend any funds, and the State Entity shall not be responsible for or liable to the Public Entity or any other entity for any such acts that are undertaken and performed in good faith and not in a negligent manner. Any funds expended by the State Entity to perform such acts as may to necessary to so maintain the Real Property and, if applicable, Facility shall be due and payable on demand by the State Entity and bear interest from the date of advancement by the State Entity at a rate equal to the lesser of the maximum interest rate allowed by law or 18% per annum based upon a 365 day year.

Section 7.04 **Records Keeping and Reporting.** The Public Entity shall maintain or cause to be maintained books, records, documents and other evidence pertaining to the costs or expenses associated with the Project and operation of the Real Property and, if applicable, Facility needed to comply with the requirements contained in this Agreement, the G.O. Compliance Legislation, the Commissioner's Order, and the State Program Enabling Legislation, and upon request shall allow or cause the entity which is maintaining such items to allow the State Entity, auditors for the State Entity, the Legislative Auditor for the State of Minnesota, or the State Auditor for the State of Minnesota, to inspect, audit, copy, or abstract, all of such items. The Public Entity shall use or cause the entity which is maintaining such items to use generally accepted accounting principles in the maintenance of such items, and shall retain or cause to be retained (i) all of such items that relate to the Project for a period of 6 years from the date that the Project is fully completed and placed into operation, and (ii) all of such items that relate to the operation of the Real Property and, if applicable, Facility for a period of 6 years from the date such operation is initiated.

Section 7.05 **Inspections by State Entity.** Upon reasonable request by the State Entity and without interfering with the normal use of the Real Property and, if applicable, Facility, the Public Entity shall allow, and will require any entity to whom it leases, subleases, or enters into a Use Contract for any portion of the Real Property and, if applicable, Facility to allow the State Entity to inspect the Real Property and, if applicable, Facility.

Section 7.06 **Data Practices.** The Public Entity agrees with respect to any data that it possesses regarding the Program Grant, the Project, or the operation of the Real Property and, if applicable, Facility, to comply with all of the provisions and restrictions contained in the Minnesota Government Data Practices Act contained in Chapter 13 of the Minnesota Statutes that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

Section 7.07 **Non-Discrimination.** The Public Entity agrees to not engage in discriminatory employment practices regarding the Project, or operation or management of the Real Property and, if applicable, Facility, and it shall, with respect to such activities, fully comply with all of the provisions contained in Chapters 363A and 181 of the Minnesota Statutes that exist as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

Section 7.08 **Worker's Compensation.** The Public Entity agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. §§ 176.181, subd. 2 and 176.182, as they may be amended, modified or replaced from time to time, with respect to the Project and the operation or management of the Real Property and, if applicable, Facility.

Section 7.09 **Antitrust Claims.** The Public Entity hereby assigns to the State Entity and the Commissioner of MMB all claims it may have for overcharges as to goods or services provided with respect to the Project, and operation or management of the Real Property and, if applicable, Facility that arise under the antitrust laws of the State of Minnesota or of the United States of America.

Section 7.10 **Review of Plans and Cost Estimates.** The Public Entity agrees to comply with all applicable provisions and requirements, if any, contained in Minn. Stat. § 16B.335, as it may be amended, modified or replaced from time to time, for the Project, and in accordance therewith the Public Entity agrees to comply with the following provisions and requirements if such provisions and requirements are applicable.

A. The Public Entity shall provide all information that the State Entity may request in order for the State Entity to determine that the Project will comply with the provisions and requirements contained in Minn. Stat. § 16B.335, as it may be amended, modified or replaced from time to time.

B. Prior to its proceeding with design activities for the Project the Public Entity shall prepare a predesign package and submit it to the Commissioner of Administration for the State of Minnesota for review and comment. The predesign package must be sufficient to define the purpose, scope, cost, and projected schedule for the Project, and must demonstrate that the Project has been analyzed according to appropriate space and needs standards. Any substantial changes to such predesign package must be submitted to the Commissioner of Administration for the State of Minnesota for review and comment.

C. If the Project includes the construction of a new building, substantial addition to an existing building, a substantial change to the interior configuration of an existing building, or the acquisition of an interest in land, then the Public Entity shall not prepare final plans and specifications until it has prepared a program plan and cost estimates for all elements necessary to complete the Project and presented them to the Chairs of the Minnesota State Senate Finance Committee and Minnesota House of Representatives Ways and Means Committee and the chairs have made their recommendations, and it has notified the Chair and Ranking Minority Member of the Minnesota House of Representatives Capital Investment Committee and the Chair and Ranking Minority Member of the Minnesota State Senate Capital Investment Committee. The program plan and cost estimates must note any significant changes in the work to be performed on the Project, or in its costs, which have arisen since the appropriation from the legislature for the Project was enacted or which differ from any previous predesign submittal.

D. The Public Entity must notify the Chairs and Ranking Minority Members of the Minnesota State Senate Finance and Capital Investment Committees, and the Minnesota House of Representatives Capital Investment and Ways and Means Committees of any significant changes to the program plan and cost estimates referred to in Section 7.10.C.

E. The program plan and cost estimates referred to in Section 7.10.C must ensure that the Project will comply with all applicable energy conservation standards contained in law, including Minn. Stat. §§ 216C.19 to 216C.20, as they may be amended, modified or replaced from time to time, and all rules adopted thereunder.

F. If any of the Program Grant is to be used for the construction or remodeling of the Facility, then both the predesign package referred to in Section 7.10.B and the program plan and cost estimates referred to in Section 7.10.C must include provisions for cost-effective information technology investments that will enable the occupant of the Facility to reduce its need for office space, provide more of its services electronically, and decentralize its operations.

G. If the Project does not involve the construction of a new building, substantial addition to an existing building, substantial change to the interior configuration of an existing building, or the acquisition of an interest in land, then prior to beginning work on the Project the Public Entity shall just notify the Chairs and Ranking Minority Members of the Minnesota State Senate Finance and Capital Investment Committees, and the Minnesota House of Representatives Capital Investment and Ways and Means Committees that the work to be performed is ready to begin.

H. The Project must be: (i) substantially completed in accordance with the program plan and cost estimates referred to in Section 7.10.C, (ii) completed in accordance with the time schedule contained in the program plan referred to in Section 7.10.C, and (iii) completed within the budgets contained in the cost estimates referred to in Section 7.10.C.

Provided, however, the provisions and requirements contained in this Section only apply to public lands or buildings or other public improvements of a capital nature, and shall not apply to the demolition or decommissioning of state assets, hazardous material projects, utility infrastructure projects, environmental testing, parking lots, parking structures, park and ride facilities, bus rapid transit stations, light rail lines, passenger rail projects, exterior lighting, fencing, highway rest areas, truck stations, storage facilities not consisting primarily of offices or heated work areas, roads, bridges, trails, pathways, campgrounds, athletic fields, dams, floodwater retention systems, water access sites, harbors, sewer separation projects, water and wastewater facilities, port development projects for which the Commissioner of Transportation for the State of Minnesota has entered into an assistance agreement under Minn. Stat. § 457A.04, as it may be amended, modified or replaced from time to time, ice centers, local government projects with a construction cost of less than $1,500,000.00, or any other capital project with a construction cost of less than $750,000.00.

Section 7.11 **Prevailing Wages.** The Public Entity agrees to comply with all of the applicable provisions contained in Chapter 177 of the Minnesota Statutes, and specifically those provisions contained in Minn. Stat. §§ 177.41 through 177.435, as they may be amended, modified or replaced from time to time with respect to the Project and the operation of the State Program on or in the Real Property and, if applicable, Facility. By agreeing to this provision, the Public Entity is not acknowledging or agreeing that the cited provisions apply to the Project or the operation of the State Program on or in the Real Property and, if applicable, Facility.

Section 7.12 **Liability.** The Public Entity and the State Entity agree that they will, subject to any indemnifications provided herein, be responsible for their own acts and the results thereof to the extent authorized by law, and they shall not be responsible for the acts of the other party and the results thereof. The liability of the State Entity and the Commissioner of MMB is governed by the provisions contained in Minn. Stat. § 3.736, as it may be amended, modified or replaced from time to time. If the Public Entity is a "municipality" as such term is used in Chapter 466 of the Minnesota Statutes that exists as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time, then the liability of the Public Entity, including but not limited to the indemnification provided under Section 7.13, is governed by the provisions contained in such Chapter 466.

Section 7.13 **Indemnification by the Public Entity.** The Public Entity shall bear all loss, expense (including attorneys' fees), and damage in connection with the Project and operation of the Real Property and, if applicable, Facility, and agrees to indemnify and hold harmless the State Entity, the Commissioner of MMB, and the State of Minnesota, their agents, servants and employees from all claims, demands and judgments made or recovered against the State Entity, the Commissioner of MMB, and the State of Minnesota, their agents, servants and employees, because of bodily injuries, including death at any time resulting therefrom, or because of damages to property of the State Entity, the Commissioner of MMB, or the State of Minnesota, or others (including loss of use) from any cause whatsoever, arising out of, incidental to, or in connection with the Project or operation of the Real Property and, if applicable, Facility, whether or not due to any act of omission or commission, including negligence of the Public Entity or any contractor or his or their employees, servants or agents, and whether or not due to any act of omission or commission (excluding, however, negligence or breach of statutory duty) of the State Entity, the Commissioner of MMB, or the State of Minnesota, their employees, servants or agents.

The Public Entity further agrees to indemnify, save, and hold the State Entity, the Commissioner of MMB, and the State of Minnesota, their agents and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation by the Public Entity, its officers, employees, or agents, or by any Counterparty, its officers, employees, or agents, of any provision of the Minnesota Government Data Practices Act, including legal fees and disbursements paid or incurred to enforce the provisions contained in Section 7.06.

The Public Entity's liability hereunder shall not be limited to the extent of insurance carried by or provided by the Public Entity, or subject to any exclusions from coverage in any insurance policy.

Section 7.14 **Relationship of the Parties.** Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between the Public Entity, the State Entity, or the Commissioner of MMB, nor shall the Public Entity be considered or deemed to be an agent, representative, or employee of the State Entity, the Commissioner of MMB, or the State of Minnesota in the performance of this Agreement, the Project, or operation of the Real Property and, if applicable, Facility.

The Public Entity represents that it has already or will secure or cause to be secured all personnel required for the performance of this Agreement and the Project, and the operation and maintenance of the Real Property and, if applicable, Facility. All personnel of the Public Entity or other persons while engaging in the performance of this Agreement, the Project, or the operation and maintenance of the Real Property and, if applicable, Facility shall not have any contractual relationship with the State Entity, the Commissioner of MMB, or the State of Minnesota, and shall not be considered employees of any of such entities. In addition, all claims that may arise on behalf of said personnel or other persons out of employment or alleged employment including, but not limited to, claims under the Workers' Compensation Act of the State of Minnesota, claims of discrimination against the Public Entity, its officers, agents, contractors, or employees shall in no way be the responsibility of the State Entity, the Commissioner of MMB, or the State of Minnesota. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the State Entity, the Commissioner of MMB, or the State of Minnesota including, but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

Section 7.15 **Notices.** In addition to any notice required under applicable law to be given in another manner, any notices required hereunder must be in writing and shall be sufficient if personally served or sent by prepaid, registered, or certified mail (return receipt requested), to the business address of the party to whom it is directed. Such business address shall be that address specified below or such different address as may hereafter be specified, by either party by written notice to the other:

To the Public Entity at:

City of Howard Lake
625 8th Avenue
PO Box 736
Howard Lake, MN 55349
ATTN: Nick Haggenmiller, City Administrator

To the State Entity at:

MN Department of Education
400 NE Stinson Blvd.
Minneapolis, MN 55408
Attention: Hannah Buckland, State Library Services

To the Commissioner of MMB at:

Minnesota Department of Management and Budget
400 Centennial Office Bldg.
658 Cedar St.
St. Paul, MN 55155
Attention: Commissioner

Section 7.16 **Binding Effect and Assignment or Modification.** This Agreement and the Declaration shall be binding upon and inure to the benefit of the Public Entity and the State Entity, and their respective successors and assigns. Provided, however, that neither the Public Entity nor the State Entity may assign any of its rights or obligations under this Agreement or the Declaration without the prior written consent of the other party. No change or modification of the terms or provisions of this Agreement or the Declaration shall be binding on either the Public Entity or the State Entity unless such change or modification is in writing and signed by an authorized official of the party or against which such change or modification is to be imposed.

Section 7.17 **Waiver.** Neither the failure by the Public Entity, the State Entity, or the Commissioner of MMB, as a third party beneficiary of this Agreement, in any one or more instances to insist upon the complete and total observance or performance of any term or provision hereof, nor the failure of the Public Entity, the State Entity, or the Commissioner of MMB, as a third party beneficiary of this Agreement, to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of the Public Entity, the State Entity, or the Commissioner of MMB, as a third party beneficiary of this Agreement, in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

Section 7.18 **Entire Agreement.** This Agreement, the Declaration, and the documents, if any, referred to and incorporated herein by reference embody the entire agreement between the Public Entity and the State Entity, and there are no other agreements, either oral or written, between the Public Entity and the State Entity on the subject matter hereof.

Section 7.19 **Choice of Law and Venue.** All matters relating to the validity, construction, performance, or enforcement of this Agreement or the Declaration shall be determined in accordance with the laws of the State of Minnesota. All legal actions initiated with respect to or arising from any provision contained in this Agreement shall be initiated, filed and venued in the State of Minnesota District Court located in the City of St. Paul, County of Ramsey, State of Minnesota.

Section 7.20 **Severability.** If any provision of this Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

Section 7.21 **Time of Essence.** Time is of the essence with respect to all of the matters contained in this Agreement.

Section 7.22 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall together constitute one and the same instrument.

Section 7.23 **Matching Funds.** The Public Entity must obtain and supply the following matching funds, if any, for the Project:

The grant requires a minimum of a 1:1 local match from non-state funds.

Any matching funds which are intended to meet the above requirements must either be in the form of (i) cash monies, (ii) legally binding commitments for money, or (iii) equivalent funds or contributions, including equity, which have been or will be used to pay for the Project. The Public Entity shall supply to the Commissioner of MMB whatever documentation the Commissioner of MMB may request to substantiate the availability and source of any matching funds, and the source and terms relating to all matching funds must be consented to, in writing, by the Commissioner of MMB.

Section 7.24 **Source and Use of Funds.** The Public Entity represents to the State Entity and the Commissioner of MMB that **Attachment III** is intended to be and is a source and use of funds statement showing the total cost of the Project and all of the funds that are available for the completion of the Project, and that the information contained in such **Attachment III** correctly and accurately delineates the following information.

A. The total cost of the Project detailing all of the major elements that make up such total cost and how much of such total cost is attributed to each such major element.

B. The source of all funds needed to complete the Project broken down among the following categories:

(i) State funds including the Program Grant, identifying the source and amount of such funds.
(ii) Matching funds, identifying the source and amount of such funds.
(iii) Other funds supplied by the Public Entity, identifying the source and amount of such funds.
(iv) Loans, identifying each such loan, the entity providing the loan, the amount of each such loan, the terms and conditions of each such loan, and all collateral pledged for repayment of each such loan.
(v) Other funds, identifying the source and amount of such funds.

C. Such other financial information that is needed to correctly reflect the total funds available for the completion of the Project, the source of such funds and the expected use of such funds.

Previously paid project expenses that are to be reimbursed and paid from proceeds of the Program Grant may only be included as a source of funds and included in **Attachment III** if such items have been approved, in writing, by the Commissioner of MMB.

If any of the funds included under the source of funds have conditions precedent to the release of such funds, then the Public Entity must provide to the State Entity and the Commissioner of MMB a detailed description of such conditions and what is being done to satisfy such conditions.

The Public Entity shall also supply whatever other information and documentation that the State Entity or the Commissioner of MMB may request to support or explain any of the information contained in **Attachment III**.

The value of the Public Entity's ownership interest in the Real Property and, if applicable, Facility should only be shown in **Attachment III** if such ownership interest is being acquired and paid for with funds shown in such **Attachment III**, and for all other circumstances such value should be shown in the definition for Ownership Value in Section 1.01 and not included in such **Attachment III**.

The funds shown in **Attachment III** and to be supplied for the Project may, subject to any limitations contained in the State Program Enabling Legislation, be provided by either the Public Entity or a Counterparty under a Use Contract.

Section 7.25 **Third-Party Beneficiary.** The State Program will benefit the State of Minnesota and the provisions and requirements contained herein are for the benefit of both the State Entity and the State of Minnesota. Therefore, the State of Minnesota, by and through its Commissioner of MMB, is and shall be a third-party beneficiary of this Agreement.

Section 7.26 **Public Entity Tasks.** Any tasks that this Agreement imposes upon the Public Entity may be performed by such other entity as the Public Entity may select or designate, provided that the failure of such other entity to perform said tasks shall be deemed to be a failure to perform by the Public Entity.

Section 7.27 **State Entity and Commissioner Required Acts and Approvals.** The State Entity and the Commissioner of MMB shall not (i) perform any act herein required or authorized by it in an unreasonable manner, (ii) unreasonably refuse to perform any act that it is required to perform hereunder, or (iii) unreasonably refuse to provide or withhold any approval that is required of it herein.

Section 7.28 **Applicability to Real Property and Facility.** This Agreement applies to the Public Entity's ownership interest in the Real Property and if a Facility exists to the Facility. The term "if applicable" appearing in conjunction with the term "Facility" is meant to indicate that this Agreement will apply to a Facility if one exists, and if no Facility exists then this Agreement will only apply to the Public Entity's ownership interest in the Real Property.

Section 7.29 **E-Verification.** The Public Entity agrees and acknowledges that it is aware of Minn. Stat. § 16C.075 regarding e-verification of employment of all newly hired employees to confirm that such employees are legally entitled to work in the United States, and that it will, if and when applicable, fully comply with such statute and impose a similar requirement in any Use Contract to which it is a party.

Section 7.30 **Jobs Reporting Requirements**. Pursuant to Minn. Stat. § 16A.633, Subd. 4, the Public Entity shall collect, maintain and, upon completion of the Project, provide the information indicated in **Attachment V** of this Agreement, to the Commissioner of MMB. The information must include, but is not limited to, the following: the number and types of jobs created by the Project, whether the jobs are new or retained, where the jobs are located and the pay ranges of the jobs.

American-Made Steel. Minnesota Laws 2014, Chapter 294, Article 2, Section 22, requires public entities receiving an appropriation of public money for a project in that act to ensure those facilities are built with American-made steel, to the extent practicable. The Public Entity shall comply with this requirement, and shall furnish any documentation pursuant thereto reasonably requested by the State Entity.

Section 7.31 **Additional Requirements.** The Public Entity and the State Entity agree to comply with the following additional requirements. In the event of any conflict or inconsistency between the following additional requirements and any other provisions or requirement contained in this Agreement, the following additional requirements contained in this Section shall control.

Accessibility. All facilities receiving Library Construction grant funds will comply with Minnesota Statutes relating to accessibility by persons with disabilities, the Americans with Disabilities Act of 1990, amendments to the act, and the Americans with Disability Act Architectural Guidelines in effect at the time of construction.

Internet filtering. The library is in compliance with Minn. Stat. § 134.50(a), which states that all public library computers with Internet access restrict access to material that is reasonably believed to be obscene, child pornography, or is otherwise harmful to minors under federal or state law. This restriction may be accomplished using software filtering technology or other effective methods.

Start date. Project may not have started prior to the enactment of the October 2020 bonding bill.

Grant application modifications. Any revisions or modifications to the grant application that are requested by the State to complete the grant agreement are binding and will be treated as if they were part of the original grant application.

[THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK]

IN TESTIMONY HEREOF, the Public Entity and the State Entity have executed this General Obligation Bond Proceeds Grant Agreement End Grant for the Howard Lake Library Project under the Public Library Construction Grant Program on the day and date indicated immediately below their respective signatures.

PUBLIC ENTITY:

City of Howard Lake
a local unit of government

By: ______________________________
Pete Zimmerman
Its: Mayor

Dated: ______________________

And: ______________________________
Nick Haggenmiller
Its: City Administrator

Dated: ______________________

STATE ENTITY:

Minnesota Department of Education,

By:

Heather Mueller, Ed.D
Its: Commissioner

Dated:

Attachment I to Grant Agreement

State of Minnesota
General Obligation Bond Financed
DECLARATION

The undersigned has the following interest in the real property located in the County of Wright, State of Minnesota that is legally described in **Exhibit A** attached and all facilities situated thereon (collectively, the "Restricted Property"):

- [x] a fee simple title,
- [ ] a lease, or
- [ ] an easement,

and as owner of such fee title, lease or easement, does hereby declare that such interest in the Restricted Property is hereby made subject to the following restrictions and encumbrances:

A. The Restricted Property is bond financed property within the meaning of Minn. Stat. § 16A.695, is subject to the encumbrance created and requirements imposed by such statute, and cannot be sold, mortgaged, encumbered or otherwise disposed of without the approval of the Commissioner of Minnesota Management and Budget, which approval must be evidenced by a written statement signed by said commissioner and attached to the deed, mortgage, encumbrance or instrument used to sell or otherwise dispose of the Restricted Property; and

B. The Restricted Property is subject to all of the terms, conditions, provisions, and limitations contained in that certain Howard Lake Library and the Minnesota Department of Education, dated July 8, 2022.

The Restricted Property shall remain subject to this State of Minnesota General Obligation Bond Financed Declaration for 125% of the useful life of the Restricted Property or until the Restricted Property is sold with the written approval of the Commissioner of Minnesota Management and Budget, at which time it shall be released therefrom by way of a written release in recordable form signed by both the Commissioner of the Minnesota Department of Education and the Commissioner of Minnesota Management and Budget, and such written release is recorded in the real estate records relating to the Restricted Property. This Declaration may not be terminated, amended, or in any way modified without the specific written consent of the Commissioner of Minnesota Management and Budget.

(SIGNATURE BLOCK, ACKNOWLEDGMENTS, AND STATEMENT AS TO WHOM IT WAS DRAFTED BY.)

Exhibit A to Declaration
LEGAL DESCRIPTION OF RESTRICTED PROPERTY

Sect-03 Twp-118 Range-027 GREENS ADDN Block-033 LOTS 1 &2 BLK 33

Attachment II to Grant Agreement
LEGAL DESCRIPTION OF REAL PROPERTY

Sect-03 Twp-118 Range-027 GREENS ADDN Block-033 LOTS 1 &2 BLK 33

Attachment III to Grant Agreement
SOURCE AND USE OF FUNDS FOR THE PROJECT

Source of Funds		Use of Funds	
Identify Source of Funds	**Amount**	**Identify Items**	**Amount**
State G.O. Funds		**Ownership Acquisition**	
Library Program Grant	$729,102	**and Other Items Paid for**	
		with Program Grant Funds	
Other State Funds		Construction	$729,102
______________	$________		
______________	$________		
______________	$________		
Subtotal	$________		
		______________	$________
Matching Funds		______________	$________
Howard Lake general fund	$250,898	Subtotal	$729,102
______________	$________		
Subtotal	$________	**Items Paid for with**	
		Non-Program Grant Funds	
Other Public Entity Funds		Construction	$2,714,826
		Architectural costs	$735,813
______________	$________	Interim construction interest	$60,000
Subtotal		Project contingency	$322,259
		Subtotal	$3,832,898
Loans			
USDA CF	$3,582,000		
______________	$________		
Subtotal	$________		
Other Funds			
______________	$________		
______________	$________		
Subtotal	$________		-
Prepaid Project Expenses			
______________	$________		
______________	$________		
Subtotal	$________		
TOTAL FUNDS	$4,562,000	**TOTAL PROJECT COSTS**	$4,562,000

Attachment IV to Grant Agreement
GRANT APPLICATION

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: **Consider Resolution Authorizing Traffic Speed Study on CSAH 7 North**

SECTION: New Business

FROM: City Administrator Nick Haggenmiller

BACKGROUND: With the addition of the widened shoulder/trail on County Road 7, additional resident concerns have been voiced regarding excessive speed. In response, HLPD has conducted additional speed enforcement which has resulted in education and citations. However, perceived speed issues remain a concern of adjacent property owners and users of the trail.

Prior to the commencement of the project, staff held conversations with the city and county engineers on this topic. The general consensus was to NOT proceed with a speed study. Speed studies result in legally binding action. Therefore, if a study is completed and determined that road conditions and circumstances are able to accommodate a HIGHER speed limit, the goal of reducing speed would not be realized. The County Engineers Office believes this to be a possible outcome on this stretch of road.

Still the efforts made to date have not satisfied adjacent property owners to the issue. Staff has approached Wright County about proceeding with a speed study, regardless to show a full response to the issue.

<u>**Speed Study Considerations and Process**</u>

The City adopts the attached resolution and would need to send to Wright County requesting that MnDOT perform a speed study on a Wright County Highway. The results of the traffic investigation determine the regulatory speed limit authorized by the commissioner of transportation. MN Statute require that the results be posted on the roadway as the regulatory speed limit. <u>The study may determine that the posted speed limit should be lower, higher or stay the same. The resolution is stating that the City understands the process and the posting of the results.</u>

The engineering and traffic investigation considers many factors, road type, surface, access points, existing traffic control devices, accident history, traffic volume, sight distances, test drive and spot speed study. <u>The official process through MnDOT can take a year or more.</u>

The most important part of the traffic investigation is the spot speed study. When choosing a speed, drivers take many roadway environment factors into consideration, therefore, the speed that the majority of people consider prudent is an important value. Data is collected by performing radar checks at selected location on the roadway under ideal driving conditions. A technical analysis is done on the results to determine the 85th percentile. This is the value indicating the speed at which most drivers are traveling under. A posted speed limit near this value is the maximum safe and reasonable speed.

County staff will plan on collecting some of this data once the project is complete and all the permanent signing and striping is done. Once the data is collected, we can schedule a meeting at the staff level to review the results of the preliminary data and answer questions prior to the City passing the resolution. If an official request is made to MnDOT, they would then collect their own data as part of the study.

Additional Notes

Discussing this with HLPD Police Chief Thompson, he notes the presence of excessive speeders. However, reviewing data from our dynamic speed sign, speed enforcement efforts (even covert efforts) do not show a consistent pattern of excessive speed.

Related to CSAH 7, we have also fielded questions/suggestions about separating the trail from the drive lane. The final lift is being placed Friday July 15. Once that is completed, the full roadway will be striped. There will be a double white line between the drive lane and the trail. There will NOT be channelizers placed as they do not meet standards needed for placement. There will not be rumble strips as rumble strips have not been documented as an effective safety add but they have been documented to shorten the lifespan of the roadway.

DECISION MAKING METRICS:

FINANCIAL: There is not an expense associated with this request.

LEGAL: The resolution was drafted with assistance of Wright County Engineer's Office.

STRATEGIC PLAN:

Strategic Initiative → "Ensure a safe and healthy community"
Strategic Action → "Provide safe, easy highway access for all users of the roadway."

COUNCIL ACTION REQUESTED: Discuss, if acceptable adopt resolution authorizing the speed study on CSAH 7.

ATTACHMENTS:

1. Resolution Authorizing Speed Study on CSAH 7

RESOLUTION TO WRIGHT COUNTY IN SUPPORT OF THE AUTHORIZATION OF THE COMMISSIONER OF TRANSPORTATION TO PERFORM AN ENGINEERING AND TRAFFIC INVESTIGATION TO DETERMINE THE REASONABLE AND SAFE SPEED LIMIT ON THE FOLLOWING WRIGHT COUNTY HIGHWAY:

CSAH 7, From T.H. 12 to CSAH 107 just north of City Limits of Howard Lake, approximately 4 miles in length.

WHEREAS, per MN Statute 169.14, the authority to determine the safe and reasonable speed on a County Highway resides with the Minnesota Commissioner of Transportation, and;

WHEREAS, it is in the best interest of all parties to have reasonable and safe speeds posted on County Highways and City Streets, and;

WHEREAS, the accepted method to determine the reasonable and safe speed is through an engineering and traffic investigation.

NOW, THEREFORE, BE IT RESOLVED, that the City of Howard Lake hereby approves this resolution to Wright County in support of the authorization of the Minnesota Commissioner of Transportation to perform an engineering and traffic investigation to determine the reasonable and safe speed limit at the above referenced location as shown on Exhibit A.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City of Howard Lake agrees to support the conclusions of the study, and the implementation of such conclusions at the July 18, 2022 Regular City Council Meeting.

__________________________________ _______________

Peter Zimmerman, Mayor Date

ATTEST

__________________________________ _______________

Nick Haggenmiller, City Administrator Date

EXHIBIT A

107
ILLSLE
7 SW
INGRAM AVE SW
Middleville Twp
47T
WOODLAND DR
IMHOFF AVE SW
1ST ST E
6TH ST
TH AVE

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: **Consider Purchase of Generator for Lift Station #2**

SECTION: New Business

FROM: Nick Haggenmiller, City Administrator

BACKGROUND: Over the last several years, we have been deliberately upgrading components of our 13 lift stations in the City. Additionally, in October 2020 the city sold a portable generator to another municipality. The stated intention of using proceeds from the sale to purchase/install a permanent generator.

The City contracts with Advanced Power Services for the maintenance of our generators city wide. They have provided a quote for the purchase and installation of a 40KW Cummings generator. The proposed location would be Lift Station #2 that is located on Highway 12 and services Dura Supreme, Deer Run Apartments etc. This is considered to be the most critical need for redundant power. As funds allow, additional requests will be brought forward. In the meantime, our portable generator has been properly retrofitted to ensure it is compatible with both new and old panels of lift stations.

Due to extended lead time and anticipated price increases, we are being coached to approve the purchase now. We will likely not pay or take possession until the first half of 2023.

DECISION MAKING METRICS:

FINANCIAL: The estimate for purchase and installation is $22,955. The City received $27,000 in proceeds from the sale of a portable generator to fund this purchase.

LEGAL: Open

STRATEGIC PLAN:
Strategic Initiative → Deliver High Quality, Reliable Infrastructure and Public Services

COUNCIL ACTION REQUESTED: Approve the quote for the purchase of a generator from Advanced Power Services.

ATTACHMENTS:
1. Quote
2. Specifications Summary

ADVANCED
POWER SERVICES, INC.

Sales Engineer: Lucas Braun
lbraun@advancedpowerservice.com

	Bill To:		Ship To:
Company Name:	City of Howard Lake	Company Name:	Lift Station #2 and #11
First Name:	Jared	First Name:	
Last Name:	Merges	Last Name:	
Address		Address	
City:	Howard Lake	City:	Howard Lake
State:	MN	State:	MN
Zip:		Zip:	

Part Number	**Model Number/Description**		**Phase**	**Price**	**Price Total**
40KW Cummins Quiet Connect Natural Gas	40KW NG Generator	Qty1 200A Breaker	120/208V 3Phase		$22,955.00
Coolant Heater	Coolant Heater	120V, 1500W			
12V Battery/ 12V 6A Charger	Battery, Group 34-Cold Start				
Asco Transfer Switch (Qty 1)	300 Series 200A, 3 Pole, Nema 3R		120/208V 3Phase		
Customer Training					
Start Up and Testing					
Electrical Installation Included In Price					
				Sub Total	**$22,955.00**
ADDITIONS				**Project & Equipment Total**	**$22,955.00**
Start up Included					
Freight Included					
Instalation Not Included					$0.00
Customer Training Included				0	$0.00
Tax Not Included				0	$0.00
				0	$0.00
				0	$0.00
				0	$0.00
				TOTAL	**$22,955.00**

This quote was prepared by:

Specification sheet

Power Generation

Quiet Connect™ Series RS40

Features and benefits

Robust product design and testing - The generator is designed to operate under extreme environmental conditions including cold weather starts at as low as -40 °F. The generator is tested and certified per the latest EPA, UL and IBC Seismic standards and is capable of meeting NFPA110 requirements when equipped with the necessary accessories and properly installed.

Flexible Exercise mode - The innovative, flexible exercise mode enables the generator to exercise at a time, frequency and duration that suits the customer's preference - as little as 2 minutes every 6 months - reducing unnecessary fuel consumption, emissions and noise.

Advanced Enclosure Design - The aesthetically appealing enclosure incorporates special designs that deliver the quietest generator of its kind. Aluminum material plus durable powder coat paint provides the best anti-corrosion performance. The generator set enclosure has been evaluated to withstand 180 MPH wind loads in accordance with ASCE7-10. The intelligent design has removable panels and service doors to provide easy access for service and maintenance.

Self diagnostics and easy service - The generator is equipped with Cummins PowerCommand electronic control to provide industry-leading self diagnostic capabilities. In addition, critical components of the generator are designed to ensure service and preventive maintenance can be completed in a short period of time.

Weight, size and sound level

Weight: 1356 lbs (615 kg)
Size: Length 94 in (2388 mm), width 34 in (864 mm), height 45.5 in (1156 mm)
Sound: 63 dB(A) at 23 ft (7 m) with sound level 2 enclosure

Series	Model	Phase	Voltage (V)	Frequency (Hz)	Rated amps[1] (NG/LPV fuel)	Circuit breaker (Amps)
RS40	C40 N6	1	120/240	60	166.7/166.7	200
		3	120/208	60	138.8/138.8	175
		3	120/240	60	120.4/120.4	150
		3	277/480	60	60.2/60.2	80

[1] Derating guidelines: Engine power available up to 114m (375 ft) at ambient temperatures up to 40 °C (104 °F). Above these elevations derate at 4% per 305m (1000 ft) and 2% per 10 °C above 40 °C (104 °F).

Product features

Engine

- Natural gas/propane 1800 rpm engine
- Engine air cleaner – normal duty
- Electronic governor, isochronous
- Engine starter, 12 VDC motor
- Shutdown – low oil pressure
- Extension – oil drain
- Engine oil

Fuel System

- Single fuel – natural gas or propane vapor, field selectable

Alternator

- 60 Hz, 1 phase, 4 lead, or 3 phase, 12 lead, 120 °C temperature rise at 40 °C ambient
- Exciter/voltage regulator – torque match

Control

- PowerCommand 1.1
- Display language – English
- Control mounting, right facing

Electrical

- Single circuit breaker, UL certified, right-side mounted
- Battery charging alternator, normal duty
- Battery charger – 6 Amp, regulated

Cooling

- Generator set cooling capability – 50 °C
- Shutdown – low coolant level
- Engine coolant – 50/50 mixture
- Extension – coolant drain

Enclosure

- Aluminum enclosure Sound Level 1 with muffler installed, sandstone color
- Wind rating – 180 MPH

Code compliance

- UL 2200
- EPA emissions, emergency, stationary, 40CFR60
- IBC Seismic
- NFPA110 capable

Generator set application

- Coolant heater
- Crank case vent heater
- Large battery rack
- Flexible fuel line
- Literature (English) – operator's manual, installation quick guide and manual, service manual

Warranty

- Base warranty – 2 year standby
- Extended warranties available

Packaging

- Shipping pallet, poly bag

Generator set performance

Governor regulation class: ISO 8528 Part 1 Class G3
Voltage regulation, no load to full load: ±1.0%
Random voltage variation: ±1.0%
Frequency regulation: Isochronous
Random frequency variation: ± 0.25% @ 60 Hz
Radio frequency emissions compliance: FCC code Title 47 part 15 Class B

Engine

Design: Turbo with after cooler
Bore: 86.5 mm (3.4 in)
Stroke: 100.0 mm (3.94 in)
Displacement: 2.4 liters (143.5 in^3)
Cylinder block: Cast iron, in-line 4 cylinder
Battery capacity: 550 amps at ambient temperature of 0 °F to 32 °F (-18 °C to 0 °C)
Battery charging alternator: 50 amps
Starting voltage: 12 volt, negative ground
Lube oil filter type(s): Spin-on with relief valve
Standard cooling system: 50° C (122° F) ambient cooling system
Rated speed: 1800 rpm

Fuel supply pressure

Minimum fuel supply pressure, kPa (in H_2O): 1.5 (6.0)
Maximum fuel supply pressure, kPa (in H_2O): 3.5 (14.0)

Control system

The PowerCommand® electronic control is standard equipment and provides total generator set system integration including automatic remote starting/stopping, precise frequency and voltage regulation, alarm and status message display, output metering, auto-shutdown at fault detection and NFPA 110 Level 1 compliance.

Sound attenuated enclosure

The aesthetically appealing enclosure incorporates special designs that deliver the quietest generator of its kind. Aluminum material plus durable powder coat paint provides the best anti-corrosion performance. The generator set enclosure has been evaluated to withstand 180 MPH wind loads in accordance with ASCE7-10. The intelligent design has removable panels and service doors to provide easy access for service and maintenance.

Average fuel consumption

Fuel consumption – natural gas

Load:	**1/4**	**1/2**	**3/4**	**Full**
Ft^3/hr:	209.5	304.7	409.5	519.0
M^3/hr:	5.9	8.5	11.5	14.5

Fuel consumption – LP vapor

Load:	**1/4**	**1/2**	**3/4**	**Full**
Ft^3/hr:	83.0	121.7	166.0	193.6
M^3/hr:	2.3	3.4	4.6	5.4
Gal/hr	2.3	3.4	4.6	5.4

Conversion factor:
8.58 ft^3 = 1 lb
0.535m^3 = 1 kg
36.39 ft^3 = 1 gal

Easy service and installation

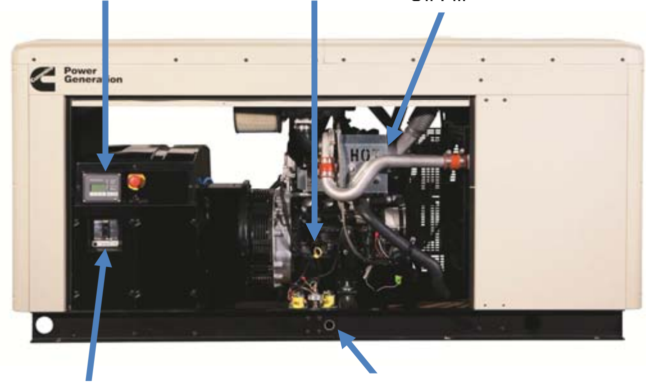
Removable Service Door

Customer Access Door

Display

Oil Check

Oil Fill

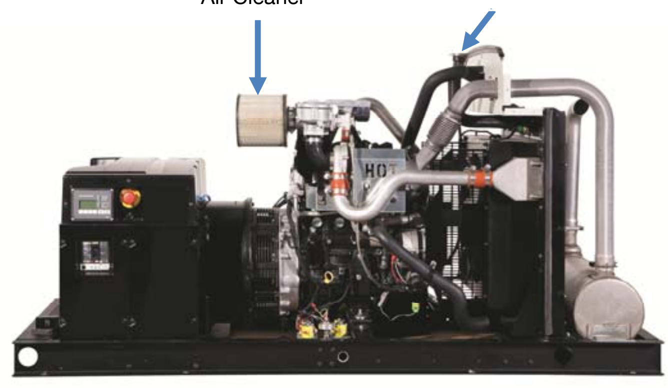


Circuit Breaker

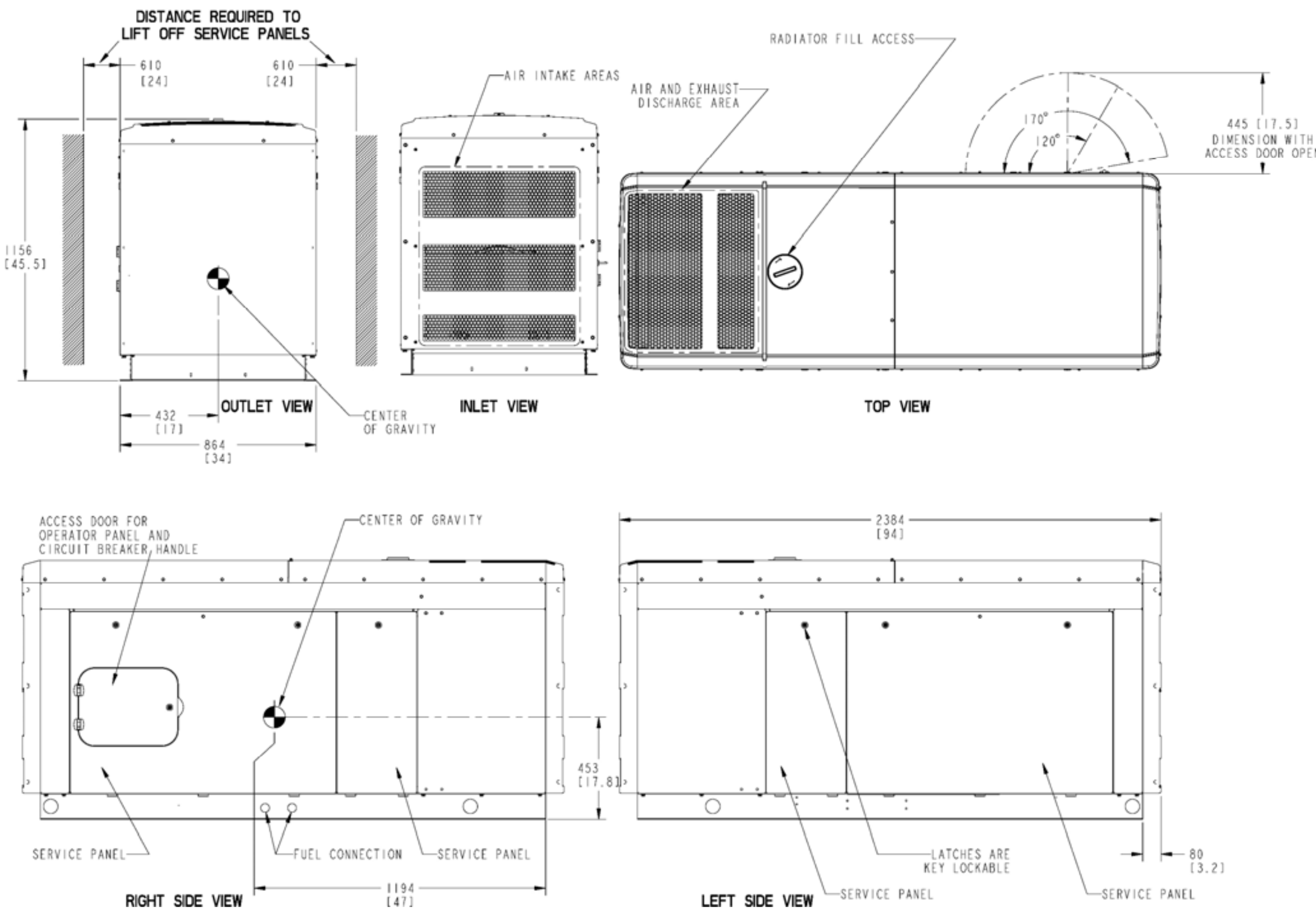
Natural Gas/Liquid Propane Fuel Connection

Air Cleaner

Coolant Fill

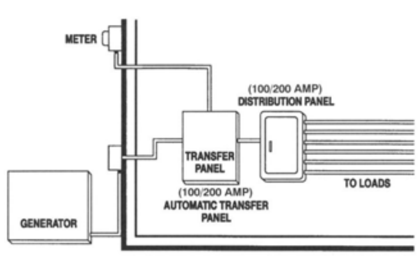


Basic dimensions

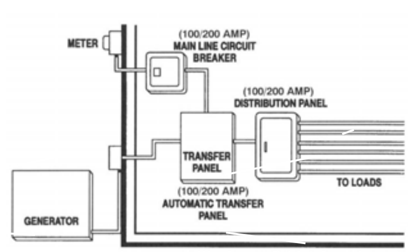


Note: This outline drawing is provided for general reference only and is not intended for use in design or installation. For more information, see Operators and Installation manuals or contact your distributor or dealer for assistance.

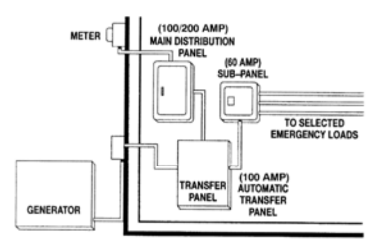
Automatic transfer panel configurations



Typical service entrance ATS model installation (100/200A)

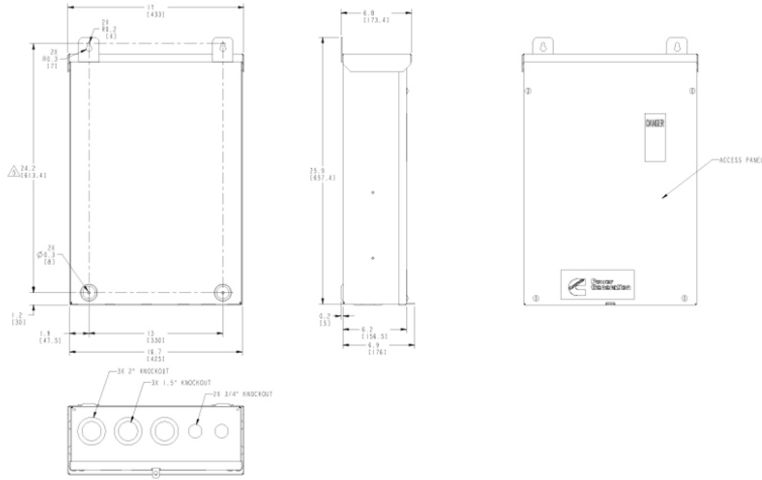


Typical non-service entrance ATS model installation (100/200A)

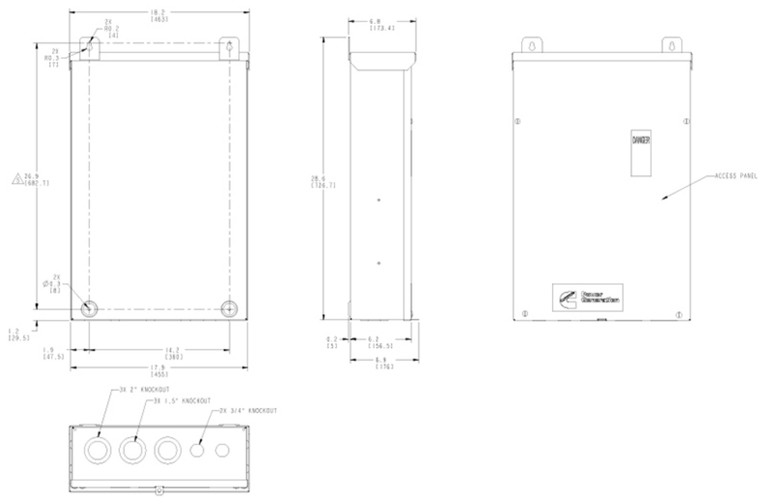


Dedicated emergency standby service system (100/200A)

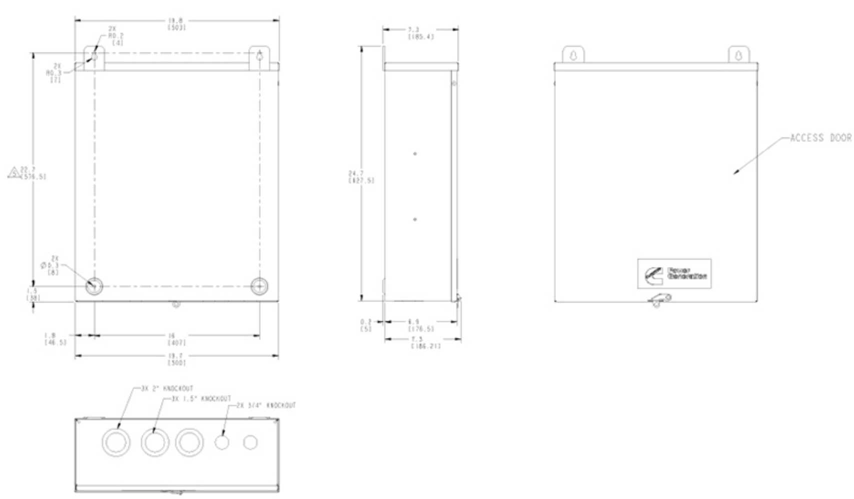
100A RA Series Automatic Transfer Switch (ATS) Non-service entrance



200A RA Series Automatic Transfer Switch (ATS) Non-service entrance



100A and 200A RA Series Automatic Transfer Switch (ATS) Service entrance



Accessories

- HMI211RS in-home display, including pre-configured 12" harness
- HMI211 remote display, including pre-configured 12" harness
- HMI220 remote display
- Auxiliary output relays (2)
- Auxiliary configurable signal inputs (8) and relay outputs (8)
- Annunciator – RS485
- Internet monitoring device – PowerCommand 500
- Battery chargers – stand-alone, 12V
- Enclosure Sound Level 1 to Sound Level 2 upgrade kit
- Enclosure paint touch up kit
- Base barrier – elevated generator set
- Alternator heater
- Maintenance and service kit
- Engine lift kit

WARNING:

Standby rating based on: Applicable for supplying emergency power for the duration of normal power interruption. No sustained overload capability is available for this rating. (Equivalent to fuel stop power in accordance with ISO3046, AS2789, DIN6271 and BS5514.) nominally rated. See T030.

WARNING:

Back feed to a utility system can cause electrocution and/or property damage. Do not connect to any building electrical except through an approved device or after building main breaker is open.

Transfer switch (sold separately)

- Automatic Transfer Switches available in various amperages.
- Service Entrance models are also available, which helps reduce the installation cost.
- All models UL listed to UL 1008 standard.
- Available for both Indoor and Outdoor applications.
- Compatibility with Cummins generator set helps reduce the installation time for the complete application.

Warranty policy

The Cummins RS and RX liquid cooled generator set models come with a 2 year base warranty when used in EPA-Stationary Emergency application. The RA series Automatic Transfer Switches come with a 2 year base warranty. Extended warranty options are available. Please contact Cummins dealers/distributors for details.

After sale support

Largest distributor/dealer support network

Cummins Power Generation generator sets are supported by the largest and best trained worldwide certified distributor/dealer network in the industry. The network of knowledgeable and highly trained dealers will help you select the right generator for your application and advise you on associated accessories for your generator. The dealer network can also help answer any questions you may have regarding operation and maintenances requirements of the generators. This same network offers a complete selection of commonly used generator set maintenance parts, manuals and specification sheets.

Manuals: Operation and installation manuals ship with the generator set. To obtain additional copies or other manuals for this model, see your distributor/dealer. To easily locate the nearest certified distributor/dealer for Cummins generators in your area, or for more information, contact us at 1-800-344-0039 or visit power.cummins.com.

Contact your distributor/dealer for more information.

North America
1400 73rd Avenue N.E.
Minneapolis, MN 55432
USA

Phone 763 574 5000
Fax 763 574 5298

Our energy working for you.™

NAS-5778d-EN (4/15)

Power Generation

power.cummins.com

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: Consider Approving Fee & Scope of Services for Geotechnical Services.

SECTION: New Business

FROM: City Administrator Nick Haggenmiller
City Engineer Josh Halvorson

BACKGROUND: The City has an adopted Capital Improvement Plan that details various street and utility improvements. The CIP has long identified and targeted 2023 as the year to move forward with a substantial street reconstruction project. The timing is intentional to coincide with general obligation debt that falls off beginning in 2027 which thereby minimizes peaks and valleys in the general fund levy.

In March of 2022, the city council authorized the fee and scope of services to complete the preliminary engineering report (PER) for this project. **Due to the frequency staff receives questions about this project and process, the full staff report from March is once again attached to this report.** As the PER moves forward by the city engineer, additional tasks that were not included in the initial proposal have been identified. Specifically, geotechnical investigations and televising of underground utility lines.

<u>Geotechnical</u>
The investigations include completing soil borings at our project locations (WTF site, Tower location, and along the streets for reconstruction). The resulting boring logs and report are latter included in the City's PER report submittal. USDA requires this information to show a thorough investigation was completed and validate the proposed improvements are necessary as proposed in the report. This information is also used latter in design for detailed construction plans according to field conditions revealed. The quote from Braun Intertec to complete these services is $34,210.

<u>Televising Lines</u>
Televising lines is an important task for financing as well as project design. The results of the televising are used in grant and funding requests to help show just cause and need for funding. Likewise, if the lines happen to be in very good condition – the scope of the proposed project may be modified to not replace or replace less than initially anticipated. Bolton and Menk is in process of seeking quotes. They will be ready between council meeting dates. Staff recommends seeking permission to move forward with this as the information comes in to keep the project moving forward. The estimated cost for these services is $15,000.

To the best of our knowledge, these are the only expenses associated with the completion of the PER that are not otherwise included in the previously approved scope of work.

DECISION MAKING METRICS:

FINANCIAL: Geotechnical quote $34,210 + Televising (estimate) $15,000 for a total of $50,000. The City has adequate reserves to fund these services. It is noted, that both temporary and permanent financing will be needed for the overall 2023 Street & Utility Projects. If desired or necessary, the City may reimburse itself for expenses with financing proceeds.

LEGAL: Open

STRATEGIC PLAN:
Strategic Initiative → Deliver High Quality, Reliable Infrastructure and Public Services.
Strategic Initiative → Maintain Fiscally Responsible City Operations

COUNCIL ACTION REQUESTED:

ATTACHMENTS:

1. Braun Intertec Proposal

Braun Intertec Corporation
3900 Roosevelt Road, Suite 113
Saint Cloud, MN 56301

Phone: 320.253.9940
Fax: 320.253.3054
Web: braunintertec.com

July 8, 2022

Proposal QTB161891

Mr. Nick Haggenmiller
City of Howard Lake
PO Box 736
Howard Lake, MN 55349

Re: Proposal for a Geotechnical Evaluation
2023 Infrastructure Improvements
Various Streets and Avenues
Howard Lake, Minnesota

Dear Mr. Haggenmiller:

Braun Intertec Corporation respectfully submits this proposal to complete a geotechnical evaluation for infrastructure improvement projects in Howard Lake, Minnesota.

Project Information

Per the proposal request and our discussions with Josh Halvorson, PE; Bolton & Menk, Inc., we understand the proposed project will include street and utility improvements, construction of a new water tower, and construction of a new water treatment plant.

The street and utility portion of the project will include installing new sanitary sewer and water main utilities and reconstructing the bituminous-surfaced roadways along portions of 4th, 5th, 9th, 10th, and 11th Street and 5th, 8th, 11th, 12th, and 13th Avenue in Howard Lake, Minnesota. This portion of the project will also include reconstructing the bituminous-surfaced roadways along portions of 8th and 10th Street and 11th and 12th Avenue.

Construction of a new water tower is also planned. The water tower will have a capacity of 250,000 gallons and will be a single pedestal spheroid design.

The configuration and site plan for the new water treatment plant is not yet final, however, we understand a 2 acre site has been identified as the location that the new treatment plant will be constructed.

Purpose

The purpose of our geotechnical evaluation will be to characterize subsurface geologic conditions at selected exploration locations, evaluate their impact on the project, and provide geotechnical recommendations for the design and construction of the utilities and bituminous pavements, water tower, and water treatment plant.

Scope of Services

We propose the following tasks to help achieve the stated purpose. If we encounter unfavorable or unforeseen conditions during the completion of our tasks that lead us to recommend an expanded scope of services, we will contact you to discuss the conditions before resuming our services.

Site Access

Based on conducting the street and utility borings within the existing roadways, we assume the borings will be accessible to a truck-mounted drill rig. We assume the water tower and water treatment plant borings will require an ATV drill rig. We also assume there will be no cause for delays in accessing the exploration locations. We are not including tree clearing, debris or obstruction removal, grading of navigable paths, or snow plowing.

We have included warning signs for traffic control, but it appears traffic volumes will be low enough that flag personnel will not be needed to direct traffic.

Depending on access requirements, ground conditions or potential utility conflicts, our field crew may alter the exploration locations from those proposed to facilitate accessibility.

Staking and Utility Clearance

We will stake prospective subsurface exploration locations, as selected by Bolton & Menk, Inc., and obtain surface elevations at those locations using GPS (Global Positioning System) technology.

Prior to drilling or excavating, we will contact Gopher State One Call and arrange for notification of the appropriate utility vendors to mark and clear the exploration locations of public underground utilities. You, or your authorized representative, are responsible to notify us before we begin our work of the presence and location of any underground objects or private utilities that are not the responsibility of public agencies.

Penetration Test Borings

As requested, we will drill the following standard penetration test (SPT) borings for the project.

- Street and Utilities: 15 borings extended to a depth of 20 feet each.
- Water Tower: 2 borings to a depth of 30 feet and 1 boring to a depth of 70 feet.
- Water Treatment Plant: 4 borings to depths of 20 feet each and 4 borings to a depth of 25 feet each.

We will perform standard penetration tests at 2 1/2-foot vertical intervals to a depth of about 15 feet, and at 5-foot intervals at greater depths.

If the intended boring depths do not extend through unsuitable material, we will extend the borings at least 5 feet into suitable material at greater depths. The additional information will help evaluate such issues as excavation depth, consolidation settlement, and foundation alternatives, among others.

If we identify a need for deeper (or additional) borings, we will contact you prior to increasing our total estimated drilled footage and submit a Change Order summarizing the anticipated additional effort and the associated cost, for your review and authorization.

Groundwater Measurements

If the borings encounter groundwater during or immediately after drilling of each boring, we will record the observed depth on the boring logs.

MDH Sealing Record

We are planning the deepest borings to be at least 15 feet and less than 25 feet. Therefore, the Minnesota Statutes require us to complete a Sealing Record after our completion of the borings. Our proposal includes the fees for the Minnesota Department of Health (MDH) Sealing Record.

In the event we extend our borings to a depth of 25 feet or greater, the MDH requires us to complete and submit a Sealing Notification Form for the project. The submission of the Sealing Notification Form will require a signature from the property owner (or agent).

Borehole Abandonment

We will backfill our exploration locations immediately after completing the drilling at each location. Minnesota Statutes require sealing temporary borings that are 15 feet deep or deeper. Based on our proposed subsurface characterization depths, we will seal 610 linear feet of borehole with grout.

Upon backfilling or sealing exploration locations, we will fill holes in pavements with a temporary patch. Sealing boreholes with grout will prevent us from disposing of auger boring cuttings in the completed boreholes. Unless you direct us otherwise, we intend to thin-spread the cuttings around the boreholes. If we cannot thin-spread cuttings, we will put them in a container left on site. We can provide off-site disposal of the cuttings for an additional fee.

Over time, subsidence of borehole backfill may occur, requiring releveling of surface grades or replacing bituminous or concrete patches. We are not assuming responsibility for re-leveling or re-patching after we complete our fieldwork.

Sample Review and Laboratory Testing

We will return recovered samples to our laboratory, where a geotechnical engineer will visually classify and log them. To help classify the materials encountered and estimate the engineering properties necessary to our analyses, we anticipate performing 41 moisture content tests, 15 mechanical analyses (through a #200 sieve only), 5 organic content tests, and 1 Atterberg Limits test. We will adjust the actual number and type of tests based on the results of our borings.

Engineering Analyses

We will use data obtained from the subsurface exploration and laboratory tests to evaluate the subsurface profile and groundwater conditions, and to perform engineering analyses related to structure and pavement design and performance.

Reports
We will prepare 3 separate reports, one for each portion of the project. The reports will include the following applicable information:

- Sketches showing the exploration locations.
- Logs of the borings describing the materials encountered and presenting the results of our groundwater measurements and laboratory tests.
- A summary of the subsurface profile and groundwater conditions.
- Discussion identifying the subsurface conditions that will impact design and construction.
- Discussion regarding the reuse of on-site materials during construction.
- Recommendations for preparing structure, utility, and pavement subgrades, and the selection, placement and compaction of fill.
- Recommendations for the design and construction of utilities, pavement subgrade preparation, pavement layer thicknesses, the water tower foundation, and spread footing foundations and slabs for the water treatment plant.

We will only submit electronic copies of our reports to you unless you request otherwise. At your request, we can also send the report to additional project team members.

Schedule

We anticipate performing our work according to the following schedule.

- Drill rig mobilization – within about 3 weeks following receipt of written authorization
- Field exploration – 6 days on site to complete the work
- Classification and laboratory testing – within 1 to 2 weeks after completion of field exploration
- Preliminary results – within 1 to 2 weeks after completion of field exploration
- Draft report submittals – within about 2 to 3 weeks after completion of field exploration
- Final report submittals – within 5 days of receiving comments on the draft reports

If we cannot complete our proposed scope of services according to this schedule due to circumstances beyond our control, we may need to revise this proposal prior to completing the remaining tasks.

Fees

We will furnish the services described in this proposal for a lump sum total fee of $33,400. Please note that our drilling/field services were budgeted to occur within our normal work hours of 7:00 a.m. to 4:00 p.m., Monday through Friday. If conditions occur that require us to work outside of these hours, we will request additional fees to cover our additional overtime costs. The table below provides a breakdown of the proposed fees associated with each portion of the project.

Proposed Fee Breakdown

Project	Fee
Street and Utility Improvements	$14,030
Water Tower	$8,660
Water Treatment Plant	$11,520
Total	**$34,210**

Our work may extend over several invoicing periods. As such, we will submit partial progress invoices for work we perform during each invoicing period.

General Remarks

We will be happy to meet with you to discuss our proposed scope of services further and clarify the various scope components.

We appreciate the opportunity to present this proposal to you. Please sign and return a copy to us in its entirety.

We based the proposed fee on the scope of services described and the assumptions that you will authorize our services within 30 days and that others will not delay us beyond our proposed schedule.

We include the Braun Intertec General Conditions, which provide additional terms and are a part of our agreement.

To have questions answered or schedule a time to meet and discuss our approach to this project further, please contact Andrew Hillerud at 218.260.0930 (ahillerud@braunintertec.com) or Steve Thayer at 320.980.3187 (sthayer@braunintertec.com).

Sincerely,

BRAUN INTERTEC CORPORATION

Andrew J. Hillerud, PE
Project Engineer

Steven A. Thayer, PE
Business Unit Manager, Senior Engineer

Attachment:
General Conditions (1/1/18)

The proposal is accepted, and you are authorized to proceed.

Authorizer's Firm

Authorizer's Signature

Authorizer's Name (please print or type)

Authorizer's Title

Date

BRAUN INTERTEC

Section 1: Agreement

1.1 Our agreement with you consists of these General Conditions and the accompanying written proposal or authorization ("Agreement"). This Agreement is the entire agreement between you and us. It supersedes prior agreements. It may be modified only in a writing signed by us, making specific reference to the provision modified.

1.2 The words "you," "we," "us," and "our" include officers, employees, and subcontractors.

1.3 In the event you use a purchase order or other documentation to authorize our scope of work ("Services"), any conflicting or additional terms are not part of this Agreement. Directing us to start work prior to execution of this Agreement constitutes your acceptance. If, however, mutually acceptable terms cannot be established, we have the right to terminate this Agreement without liability to you or others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

Section 2: Our Responsibilities

2.1 We will provide Services specifically described in this Agreement. You agree that we are not responsible for services that are not expressly included in this Agreement. Unless otherwise agreed in writing, our findings, opinions, and recommendations will be provided to you in writing. You agree not to rely on oral findings, opinions, or recommendations without our written approval.

2.2 In performing our professional services, we will use that degree of care and skill ordinarily exercised under similar circumstances by reputable members of our profession practicing in the same locality. If you direct us to deviate from our recommended procedures, you agree to hold us harmless from claims, damages, and expenses arising out of your direction. If during the one year period following completion of Services it is determined that the above standards have not been met and you have promptly notified us in writing of such failure, we will perform, at our cost, such corrective services as may be necessary, within the original scope in this Agreement, to remedy such deficiency. Remedies set forth in this section constitute your sole and exclusive recourse with respect to the performance or quality of Services.

2.3 We will reference our field observations and sampling to available reference points, but we will not survey, set, or check the accuracy of those points unless we accept that duty in writing. Locations of field observations or sampling described in our report or shown on our sketches are based on information provided by others or estimates made by our personnel. You agree that such dimensions, depths, or elevations are approximations unless specifically stated otherwise in the report. You accept the inherent risk that samples or observations may not be representative of things not sampled or seen and further that site conditions may vary over distance or change over time.

2.4 Our duties do not include supervising or directing your representatives or contractors or commenting on, overseeing, or providing the means and methods of their services unless expressly set forth in this Agreement. We will not be responsible for the failure of your contractors, and the providing of Services will not relieve others of their responsibilities to you or to others.

2.5 We will provide a health and safety program for our employees, but we will not be responsible for contractor, owner, project, or site health or safety.

2.6 You will provide, at no cost to us, appropriate site safety measures as to work areas to be observed or inspected by us. Our employees are authorized by you to refuse to work under conditions that may be unsafe.

2.7 Unless a fixed fee is indicated, our price is an estimate of our project costs and expenses based on information available to us and our experience and knowledge. Such estimates are an exercise of our professional judgment and are not guaranteed or warranted. Actual costs may vary. You should allow a contingency in addition to estimated costs.

Section 3: Your Responsibilities

3.1 You will provide us with prior environmental, geotechnical and other reports, specifications, plans, and information to which you have access about the site. You agree to provide us with all plans, changes in plans, and new information as to site conditions until we have completed Services.

3.2 You will provide access to the site. In the performance of Services some site damage is normal even when due care is exercised. We will use reasonable care to minimize damage to the site. We have not included the cost of restoration of damage in the estimated charges.

3.3 You agree to provide us, in a timely manner, with information that you have regarding buried objects at the site. We will not be responsible for locating buried objects at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, losses, penalties and expenses (including attorney fees) involving buried objects that were not properly marked or identified or of which you had knowledge but did not timely call to our attention or correctly show on the plans you or others furnished to us*.

3.4 You will notify us of any knowledge or suspicion of the presence of hazardous or dangerous materials present on any work site or in a sample provided to us. You agree to provide us with information in your possession or control relating to such materials or samples. If we observe or suspect the presence of contaminants not anticipated in this Agreement, we may terminate Services without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

3.5 Neither this Agreement nor the providing of Services will operate to make us an owner, operator, generator, transporter, treater, storer, or a disposal facility within the meaning of the Resource Conservation Recovery Act, as amended, or within the meaning of any other law governing the handling, treatment, storage, or disposal of hazardous substances. *You agree to hold us harmless, defend, and indemnify us from any damages, claims, damages, penalties or losses resulting from the storage, removal, hauling or disposal of such substances*.

3.6 Monitoring wells are your property, and you are responsible for their permitting, maintenance, and abandonment unless expressly set forth otherwise in this Agreement.

3.7 You agree to make all disclosures required by law. In the event you do not own the project site, you acknowledge that it is your duty to inform the owner of the discovery or release of contaminants at the site. *You agree to hold us harmless, defend, and indemnify us from claims, damages, penalties, or losses and expenses, including attorney fees, related to failures to make disclosures, disclosures made by us that are required by law, and from claims related to the informing or failure to inform the site owner of the discovery of contaminants.*

Section 4: Reports and Records

4.1 Unless you request otherwise, we will provide our report in an electronic format.

4.2 Our reports, notes, calculations, and other documents and our computer software and data are instruments of our service to you, and they remain our property. We hereby grant you a license to use the reports and related information we provide only for the related project and for the purposes disclosed to us. You may not transfer our reports to others or use them for a purpose for which they were not prepared without our written approval*. You agree to indemnify, defend, and hold us harmless from claims, damages, losses, and expenses, including attorney fees, arising out of such a transfer or use.*

4.3 If you do not pay for Services in full as agreed, we may retain work not yet delivered to you and you agree to return to us all of our work that is in your possession or under your control.

4.4 Samples and field data remaining after tests are conducted and field and laboratory equipment that cannot be adequately cleansed of contaminants are and continue to be your property. They may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

4.5 Electronic data, reports, photographs, samples, and other materials provided by you or others may be discarded or returned to you, at our discretion, unless within 15 days of the report date you give us written direction to store or transfer the materials at your expense.

Section 5: Compensation

5.1 You will pay for Services as stated in this Agreement. If such payment references our Schedule of Charges, the invoicing will be based upon the most current schedule. An estimated amount is not a firm figure. You agree to pay all sales taxes and other taxes based on your payment of our compensation. Our performance is subject to credit approval and payment of any specified retainer.

5.2 You will notify us of billing disputes within 15 days. You will pay undisputed portions of invoices upon receipt. You agree to pay interest on unpaid balances beginning 30 days after invoice dates at the rate of 1.5% per month, or at the maximum rate allowed by law.

5.3 If you direct us to invoice a third party, we may do so, but you agree to be responsible for our compensation unless the third party is creditworthy (in our sole opinion) and provides written acceptance of all terms of this Agreement.

5.4 Your obligation to pay for Services under this Agreement is not contingent on your ability to obtain financing, governmental or regulatory agency approval, permits, final adjudication of any lawsuit, your successful completion of any project, receipt of payment from a third party, or any other event. No retainage will be withheld.

5.5 If you do not pay us in accordance with this Agreement, you agree to reimburse all costs and expenses for collection of the moneys invoiced, including but not limited to attorney fees and staff time.

5.6 You agree to compensate us in accordance with our Schedule of Charges if we are asked or required to respond to legal process arising out of a proceeding related to the project and as to which we are not a party.

5.7 If we are delayed by factors beyond our control, or if project conditions or the scope or amount of work changes, or if changed labor conditions result in increased costs, decreased efficiency, or delays, or if the standards or methods change, we will give you timely notice, the schedule will be extended for each day of delay, and we will be compensated for costs and expenses incurred in accordance with our Schedule of Charges.

5.8 If you fail to pay us in accordance with this Agreement, we may consider the default a total breach of this Agreement and, at our option, terminate our duties without liability to you or to others, and you will compensate us for fees earned and expenses incurred up to the time of termination.

5.9 In consideration of our providing insurance to cover claims made by you, you hereby waive any right to offset fees otherwise due us.

Section 6: Disputes, Damage, and Risk Allocation

6.1 Each of us will exercise good faith efforts to resolve disputes without litigation. Such efforts will include, but not be limited to, a meeting(s) attended by each party's representative(s) empowered to resolve the dispute. Before either of us commences an action against the other, disputes (except collections) will be submitted to mediation.

6.2 ***Notwithstanding anything to the contrary in this Agreement, neither party hereto shall be responsible or held liable to the other for punitive, indirect, incidental, or consequential damages, or liability for loss of use, loss of business opportunity, loss of profit or revenue, loss of product or output, or business interruption.***

6.3 You and we agree that any action in relation to an alleged breach of our standard of care or this Agreement shall be commenced within one year of the date of the breach or of the date of substantial completion of Services, whichever is earlier, without regard to the date the breach is discovered. Any action not brought within that one year time period shall be barred, without regard to any other limitations period set forth by law or statute. We will not be liable unless you have notified us within 30 days of the date of such breach and unless you have given us an opportunity to investigate and to recommend ways of mitigating damages. You agree not to make a claim against us unless you have provided us at least 30 days prior to the institution of any legal proceeding against us with a written certificate executed by an appropriately licensed professional specifying and certifying each and every act or omission that you contend constitutes a violation of the standard of care governing our professional services. Should you fail to meet the conditions above, you agree to fully release us from any liability for such allegation.

6.4 ***For you to obtain the benefit of a fee which includes a reasonable allowance for risks, you agree that our aggregate liability for all claims will not exceed the fee paid for Services or $50,000, whichever is greater. If you are unwilling to accept this allocation of risk, we will increase our aggregate liability to $100,000 provided that, within 10 days of the date of this Agreement, you provide payment in an amount that will increase our fees by 10%, but not less than $500, to compensate us for the greater risk undertaken.*** This increased fee is not the purchase of insurance.

6.5 ***You agree to indemnify us from all liability to others in excess of the risk allocation stated herein and to insure this obligation. In addition, all indemnities and limitations of liability set forth in this Agreement apply however the same may arise, whether in contract, tort, statute, equity or other theory of law, including, but not limited to, the breach of any legal duty or the fault, negligence, or strict liability of either party.***

6.6 This Agreement shall be governed, construed, and enforced in accordance with the laws of the state in which our servicing office is located, without regard to its conflict of laws rules. The laws of the state of our servicing office will govern all disputes, and all claims shall be heard in the state or federal courts for that state. Each of us waives trial by jury.

6.7 No officer or employee acting within the scope of employment shall have individual liability for his or her acts or omissions, and you agree not to make a claim against individual officers or employees.

Section 7: General Indemnification

7.1 *We will indemnify and hold you harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by our negligent acts or omissions or those negligent acts or omissions of persons for whom we are legally responsible. You will indemnify and hold us harmless from and against demands, damages, and expenses of others to the comparative extent they are caused by your negligent acts or omissions or those negligent acts or omissions of persons for whom you are legally responsible*.

7.2 To the extent it may be necessary to indemnify either of us under Section 7.1, you and we expressly waive, in favor of the other only, any immunity or exemption from liability that exists under any worker compensation law.

7.3 You agree to indemnify us against losses and costs arising out of claims of patent or copyright infringement as to any process or system that is specified or selected by you or by others on your behalf.

Section 8: Miscellaneous Provisions

8.1 We will provide a certificate of insurance to you upon request. Any claim as an Additional Insured shall be limited to losses caused by our negligence.

8.2 You and we, for ourselves and our insurers, waive all claims and rights of subrogation for losses arising out of causes of loss covered by our respective insurance policies.

8.3 Neither of us will assign or transfer any interest, any claim, any cause of action, or any right against the other. Neither of us will assign or otherwise transfer or encumber any proceeds or expected proceeds or compensation from the project or project claims to any third person, whether directly or as collateral or otherwise.

8.4 This Agreement may be terminated early only in writing. You will compensate us for fees earned for performance completed and expenses incurred up to the time of termination.

8.5 If any provision of this Agreement is held invalid or unenforceable, then such provision will be modified to reflect the parties' intention. All remaining provisions of this Agreement shall remain in full force and effect.

8.6 No waiver of any right or privilege of either party will occur upon such party's failure to insist on performance of any term, condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach.

HOWARD LAKE CITY COUNCIL MEETING

MARCH 21, 2022

AGENDA ITEM: **Consider Scope and Fee for Preliminary Engineering Report for 2023 Street Project**

SECTION: New Business

FROM: Nick Haggenmiller, City Administrator
Joshua Halvorson, City Engineer

BACKGROUND: The proposed street and utility projects slated for the upcoming years will include a complex combination of funding sources that require a preliminary engineering report (PER) as well as applications submitted. The various applications will determine the City's financial need based on affordability.

The following tasks and deadlines are related to specific funding sources that the city will be seeking to complete the water resource and street & utility projects. Collectively, this product is known as the Preliminary Engineering Report (PER). Once completed and submitted, the actual design development work will begin for the projects.

Project Schedule	
Task	**Finish**
Scope of Services Approval	March 21, 2022
Task 1: CWRF PPL Application Modification - MPCA	April 22, 2022
Task 2: DWRF PPL Application - MDH	May 6, 2022
Task 3: USDA RD PER Preparation	August 2022
Task 4: Procurement Requirements per USDA	September 2022
Task 5: RD Apply - Application Intake	October 2022

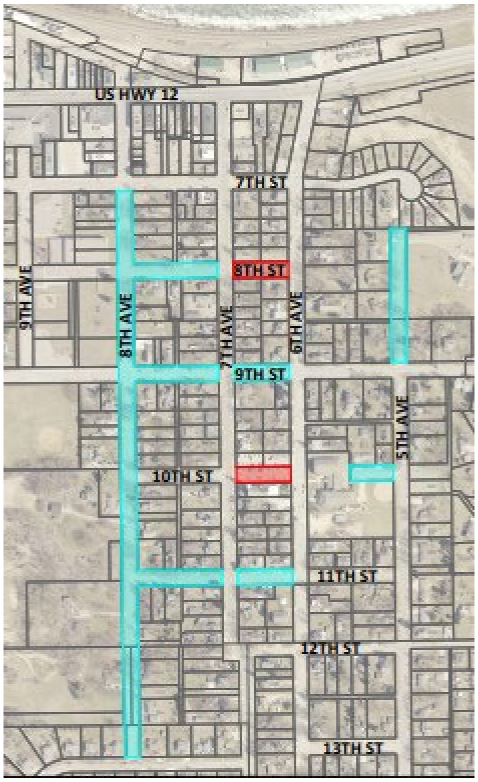
The overall project schedule proposes constant activity, mostly at the engineer and city staff level, from now through an anticipated 2025 completion for all projects.

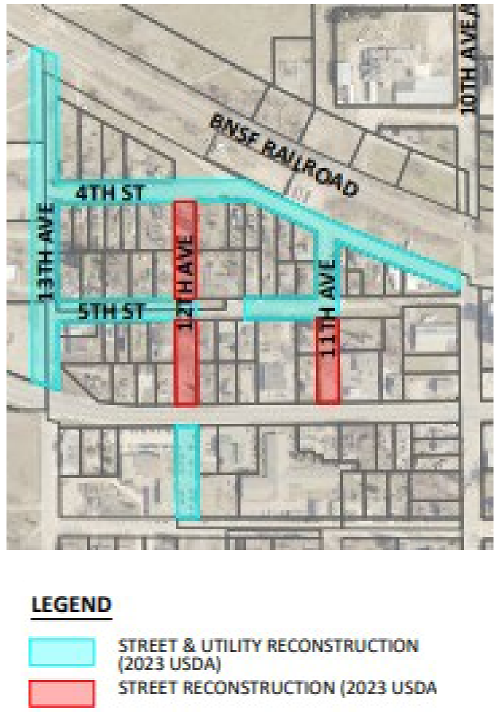
Future Anticipated Milestones	
Initiate Design	September 2022
USDA PER Approval	January 2023
RD Financing & Approvals	April 2023
Finish Design	May 2023
Bid Projects	June 2023
Start Construction	July 2023
Project Completion	December 2025

The PER will include the following broad scope:

- Applications deemed necessary funding
- Preliminary engineering related to funding submissions
- Water Treatment Plant
- Well
- Water Tower
- Street & Utility Reconstruction*

***Street & Utility Reconstruction**
About 40% of the City is slated for reconstruction with this project. This follows the core of the city having been reconstructed in 2011 and an additional 25% of the City that is approximately in the middle of the anticipated lifespan of their street & utilities. The following is a map that shows the proposed project area:





DECISION MAKING METRICS:

FINANCIAL: The proposed scope has a fee associated not to exceed $121,600. This would be incurred and billed using reserves over the next 6 months. Staff is holding regular conversations with our financial advisor on the overall financing for the projects. It is likely that at some point when debt is issued related to the projects, that some or all of the engineering will refund the general fund.

LEGAL: Multiple quotes are not required provided the Professional Services provision of purchasing.

STRATEGIC PLAN: Deliver High Quality Reliable Infrastructure and Public Services.

COUNCIL ACTION REQUESTED: Approve Scope and Fee for Preliminary Engineering Report for 2023 Street Project

ATTACHMENTS:
1. Proposal from BMI for Preliminary Engineering Report 2023 Street & Utility Projects.

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

March 17, 2022

Nick Haggenmiller, City Administrator
City of Howard Lake
625 8th Ave
PO Box 736
Howard Lake, MN 55349

RE: PER Proposal: Water Treatment Facility, Tower, & Phase 2 Utility Improvements
Howard Lake, Minnesota
BMI Project #: 0W1.126614

Dear Mr. Haggenmiller:

Bolton & Menk, Inc. is pleased to submit this proposal for completing a Preliminary Engineering Report for the Water Treatment Facility, Tower, & Phase 2 Utility Improvements for the City of Howard Lake. This letter outlines our understanding of the project, proposed scope of services, anticipated project timing, and proposed fees for completing your Preliminary Engineering Report.

If the proposal and the attached Terms of Proposal are acceptable, please return one signed copy to verify your acceptance. When signed, this proposal and the attached terms shall constitute the agreement between the City of Howard Lake and Bolton & Menk, Inc.

Thank you for considering and working with Bolton & Menk, Inc., for your engineering needs! Please review the attached documents and contact me at 320-905-3520 or email me at joshua.halvorson@bolton-menk.com if you have questions or concerns.

Sincerely,
Bolton & Menk, Inc

Joshua J. Halvorson, P.E.
City Engineer

Attachments: Scope of Services
Figure #1 – Project Location Map; Street & Utility Improvements
Figure #2 – PER Report Contents
Terms of Proposal

PROJECT UNDERSTANDING

The City of Howard Lake is undergoing implementation of their Capital Improvement Plan (CIP). Improvements as part of the CIP include the replacement of the City's Water Treatment Facility originally constructed in 1988, water storage replacement of the existing 1947 water tower #1 (south tower) with corresponding well, and the reconstruction of numerous streets and their corresponding sanitary sewer, watermain, and storm sewer utilities. The streets to be reconstructed as part of this plan and CIP are as exhibited in the attached **Figure #1.**

The scope of work included in this proposal will encompass an engineering investigation into these CIP improvements and documented into a preliminary engineering report (PER). This required document is an element needed for obtaining Federal financing options through the United States Department of Agriculture Rural Development (USDA RD) in cooperation with State programs of the Clean Water Revolving Fund (CWRF) and Drinking Water Revolving Fund (DWRF) for granting assistance. The scope of services provided by Bolton & Menk, Inc. are comprehensive in effort to gain financial position through an approved PER for the proposed CIP improvements identified.

SCOPE OF SERVICES

The linear progression of the City to move forward with the proposed CIP Improvements identifies the scope of services that need to be completed to align with Financing agency's fiscal calendars for funding. The tasks contained in this proposal position the City to become proactive in maximizing eligibility for infrastructure funding. Further detail on the milestone completion date for the scope of services are included in the Project Schedule of this proposal. Bolton & Menk, Inc. will provide the following scope of work separated into the following tasks:

Task 1 - CWRF Fund Project Priority List (PPL) Modification

The Clean Water Revolving Fund is a program specifically geared to sanitary sewer improvements and administered through the MPCA. The proposed CIP project areas as illustrated in **Figure #1** contain sanitary sewer collection system improvements that are eligible for financing and granting opportunities due to this condition. The City of Howard Lake currently is on the PPL for the CWRF that incorrectly identifies the CIP Improvements.

Bolton & Menk, Inc. will notify and relay to the MPCA the current project information to properly identify and rank the proposed improvements to remain on the CWRF PPL. This includes providing updated project scope of the project, coordinating the City's CIP improvements with the MPCA engineer, and deriving the estimated sanitary sewer costs for such improvements that are eligible for consideration with these funds.

Task 2 – DWRF PPL Application

Similarly, the DWRF is a program specifically geared for funding to water system components of a project and administered through the MDH. To be eligible for finance or granting opportunities, the PPL application will be completed for the DWRF due by May 6, 2022. Application for this fund will include combining the watermain reconstruction needs in the areas as identified in **Figure #1**, water storage, well, and water treatment facility.

Bolton & Menk, Inc. will utilize the completed Water Treatment Facility report information and derive the additional information needed for the watermain reconstruction to be included in the PPL application. The PPL application will be completed per the MDH submittal checklist. This includes a narrative of the project detailing the project, costs, and schedule. Upon compiling and combing this information, the application will be submitted to get the proposed CIP project on DWRF PPL.

Task 3 – USDA RD PER Preparation

A PER is a planning document required by Federal agencies as part of the process of obtaining financial assistance for development of drinking water, wastewater, solid waste, and stormwater projects. The PER describes the proposed project from an engineering perspective, analyzes alternatives to the proposal, defines project costs, and provides information critical to the underwriting process.

Bolton & Menk, Inc. will prepare the PER to satisfy the requirements of USDA Bulletin 1780-2. The USDA RD PER is an exhaustive seven-section report that is outlined in the attached **Figure #2 – PER Report Contents.** Bolton & Menk Inc.'s involvement will continue until approval of the PER by RD.

The PER will also include an Environmental Report (ER), which will review and determine impacts to the physical and social environment associated with the proposed CIP improvements. Bolton & Menk, Inc. will prepare the ER to satisfy the requirements of USDA Bulletin 1794. Our services include performing field and office research as to the physical and social environmental impacts that result from the proposed project and provide a summary report of the findings for agency review.

In the preparation of the PER, Bolton & Menk, Inc. has assumed that Geotechnical Services and Sewer Televising needs will be contracted directly with the City. However, Bolton & Menk, Inc. will identify and assist in the solicitation for these services as this information is needed to complete the PER.

Task 4 – Procurement Requirements per USDA

Through the process of completing the PER, Bolton & Menk, Inc. will handle the itemized procurement conditions required by USDA RD. These tasks include:

- USDA RD 1780.19 – Perform Public Hearing on Improvements to discuss the proposed CIP project, including economic and environmental impacts, service area, alternatives to the project, and potential funding sources, including USDA Rural Development. In addition, Bolton & Menk, Inc. will produce "Notice of Intent to File an Application" with USDA RD. Such notice will then be published and distributed for any written comments.
- USDA RD 1780.39 - Complete solicitation requirements for obtaining qualified and competent professionals to complete the proposed CIP improvements from design through construction. This includes public notice of services & record of qualifications.

Task 5 – RD Apply – Application Intake

RD Apply is an application intake system that allows the city to apply for loans and grants for Rural Utility Services (RUS) Programs through USDA. This is an electronic application format that provides convenience, identity security, and reduced paper consumption. Considering the nature of the proposed CIP Project being Water & Environmental, RD Apply is the current program for this RUS USDA application.

Bolton & Menk, Inc. will complete and support the City in completing RD Apply sectional material as it applies to completed PER items. At any time during the application process, Bolton & Menk, Inc. and RUS program staff, can display whether a section is complete. This allows the status of any section within the application to be seen at any time and act accordingly.

SCHEDULE

Bolton & Menk, Inc. will initiate providing the scope of services immediately following execution of this proposal. The scope of services within this proposal will take approximately seven (7) months to complete and are aligned to meet the fiscal funding deadlines of the CWRF, DWRF, and USDA RD. Bolton & Menk, Inc. proposes to meet the following schedule:

Project Schedule	
Task	**Finish**
Scope of Services Approval	March 21, 2022
Task 1: CWRF PPL Application Modification - MPCA	April 22, 2022
Task 2: DWRF PPL Application - MDH	May 6, 2022
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Future Anticipated Milestones	
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USDA PER Approval	January 2023
RD Financing & Approvals	April 2023
Finish Design	May 2023
Bid Projects	June 2023
Start Construction	July 2023
Project Completion	December 2025

The completion of the proposed scope of services is needed for achieving future anticipated milestones of the proposed CIP as illustrated in this proposal. This schedule will be adjusted as progress of tasks, permitting, and approvals drive the completion of subsequent project tasks. The owner will be made aware of any deviations to this schedule that effect or jeopardize the intent of the project or change the scope of this proposal.

FEES

Bolton & Menk, Inc. understands the importance of delivering project tasks on time and within budget. We closely monitor our time, budget, and efficiency of our staff to provide value and savings to our clients. Based on our experience working with the City of Howard Lake, and with similar projects, we are confident in the level of effort required to deliver a successful project.

Bolton & Menk, Inc. proposes to provide the described work on an HOURLY NOT TO EXCEED contract up to a total fee of **$121,600.00**. 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. Each task is broken down by anticipated hours and associated fee:

Scope of Services		
Task	**Hours**	**Estimated Fees**
Task 1: CWRF PPL Modifications - MPCA	32	$4,100
Task 2: DWRF PPL Application - MDH	60	$8,400
Task 3: USDA RD PER Preparation	640	$96,000
Task 4: Procurement Requirements per USDA	40	$6,400
Task 5: RD Apply - Application Intake	48	$6,700
Total	**820**	**$121,600**

The above fees represent approximately 820 total hours of engineering and technical time for consideration by evaluating the existing facilities, developing options, financial considerations, preparing the plan and report, attending meetings, and presenting the findings to the City of Howard Lake for your Water Treatment Facility, Water Tower, Well, & Ph. 2 Street & Utility Reconstruction areas.

Bolton & Menk, Inc. understand the proposed scope of work is dynamic and subject to modification, our scope of services and estimated fee is open to further negotiation. 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.

ACCEPTANCE

The undersigned represents that it is the City of Howard Lake or has been authorized to accept this Proposal on behalf of the City of Howard Lake. The City of Howard Lake agrees to the Terms and Conditions as stated above and as attached to this Proposal. Unless otherwise replaced or modified by a separately executed, written Agreement, this Proposal shall constitute the full and complete agreement between the City of Howard Lake and Bolton & Menk, Inc.

Accepted by:

Print Name/Title

Signature and Date

2023 Street and Utility Infrastucture Improvements Project Figure #1: Project Location Map

City of Howard Lake

February 2022

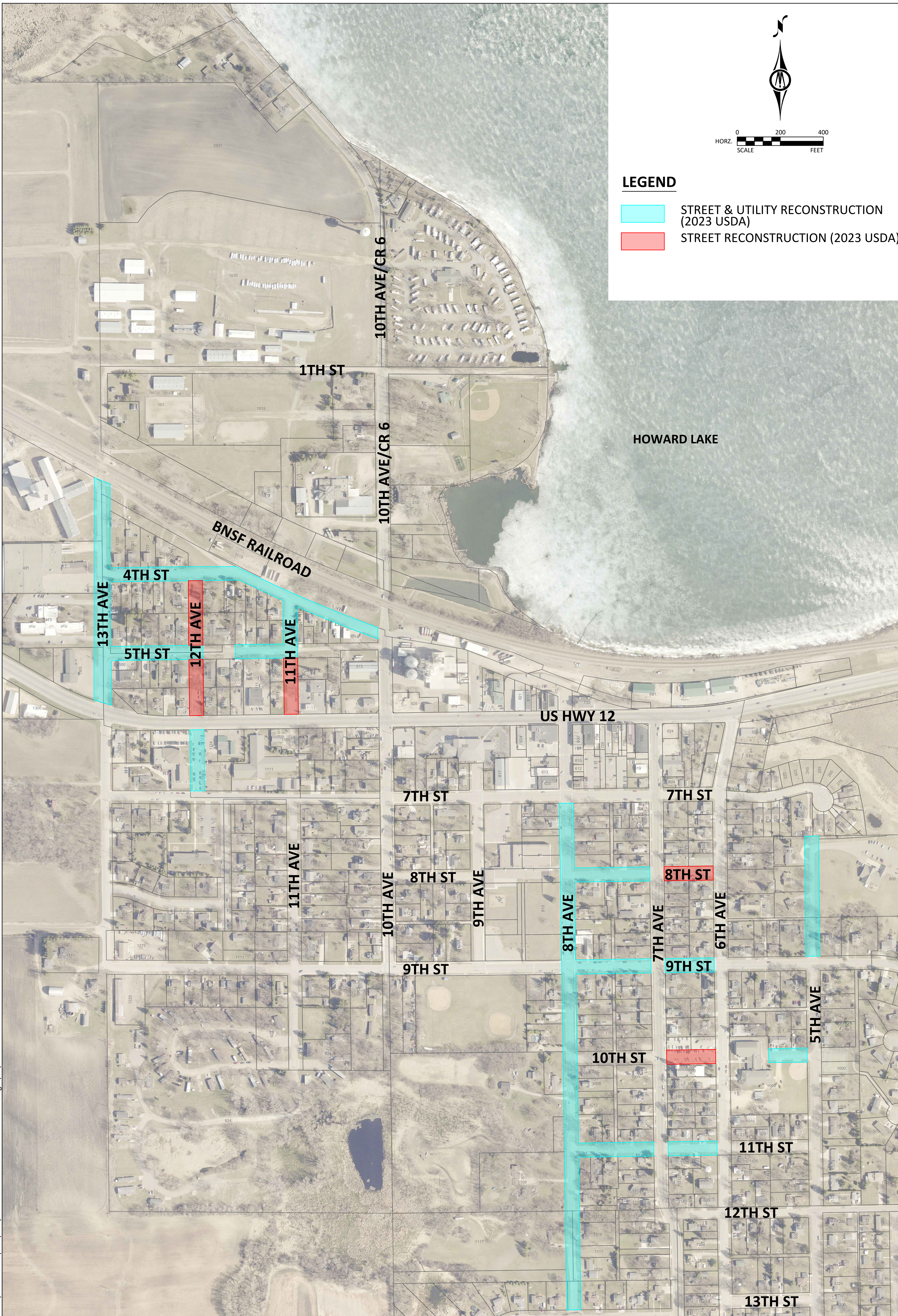

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FIGURE #2 – PER Report Contents

OUTLINE OF A PRELIMINARY ENGINEERING REPORT
USDA Bulletin: 1780-2

1) PROJECT PLANNING
    a) Location
    b) Environmental Resources Present
    c) Population Trends
    d) Community Engagement
2) EXISTING FACILITIES
    a) Location Map
    b) History
    c) Condition of Existing Facilities
    d) Financial Status of any Existing Facilities
    e) Water/Energy/Waste Audits
3) NEED FOR PROJECT
    a) Health, Sanitation, and Security
    b) Aging Infrastructure
    c) Reasonable Growth
4) ALTERNATIVES CONSIDERED
    a) Description
    b) Design Criteria
    c) Map
    d) Environmental Impacts
    e) Land Requirements
    f) Potential Construction Problems
    g) Sustainability Considerations
        i) Water and Energy Efficiency
        ii) Green Infrastructure
        iii) Other
    h) Cost Estimates
5) SELECTION OF AN ALTERNATIVE
    a) Life Cycle Cost Analysis
    b) Non-Monetary Factors
6) PROPOSED PROJECT (RECOMMENDED ALTERNATIVE)
    a) Preliminary Project Design
    b) Project Schedule
    c) Permit Requirements
    d) Sustainability Considerations
        i) Water and Energy Efficiency
        ii) Green Infrastructure
        iii) Other
    e) Total Project Cost Estimate (Engineer's Opinion of Probable Cost)
    f) Annual Operating Budget
        i) Income
        ii) Annual O&M Costs
        iii) Debt Repayments
        iv) Reserves

7) CONCLUSIONS AND RECOMMENDATIONS

Terms of Proposal
Bolton & Menk, Inc.

The accompanying Proposal (hereinafter referred to as "Proposal") is subject to the following terms and conditions. These Terms of Proposal (hereinafter referred to as "Terms") are an integral part of the accompanying Proposal as if stated directly therein. No change or deviation from these Terms will be binding without the written approval of Bolton & Menk, Inc. (BMI). Such changes may require an adjustment in the proposed fee, schedule, or scope of Proposal.

A. Services: BMI proposes to perform the services ("Services") outlined in the Proposal for the stated fee arrangement. Changes required by the CLIENT or other controlling entities (regulatory agencies, contractors, courts, etc.) from the scope or schedule described in the Proposal are "Additional Services" and will be invoiced on an hourly basis in addition to the stated fee arrangement.

B. Information from Client: The CLIENT shall place any and all previously acquired information in its custody at the disposal of BMI for its use. This information should include current site property descriptions (from abstract, title opinion or title commitment); other legal documents affecting the site; copies of previous surveys, maps, utility locates, engineering studies and plans; existing or required soils and geotechnical reports; governmental, regulatory and utility reviews and determinations; and all other pertinent information. BMI may rely on accuracy of CLIENT provided information. CLIENT shall promptly inform BMI of any alleged defects in the Services.

C. Access to Site: 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 as needed for the performance of Services

D. Client Provided Services. BMI's Services do not include legal, insurance counseling, accounting, independent cost estimating, financial advisory or municipal advisor services and the CLIENT shall provide such services as may be required for completion of the project. The CLIENT may hire, at its discretion, when requested by BMI, an independent test company to perform laboratory and material testing services, and soil investigation that can be justified for proper completion of BMI's Services. If CLIENT elects not to hire an independent test company, CLIENT shall provide BMI with guidance and direction on completing those aspects of BMI's Services that require additional testing data.

E. Permits. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the Project. BMI will assist CLIENT with permit preparation and documentation to the extent described in the attached Proposal. BMI makes no representations as to acceptability or approvability of the project or permit applications. CLIENT's obligation for payment of fees owed BMI is not contingent upon project approval

F. 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 BMI's profession currently practicing under similar conditions. **BMI makes no warranties, expressed or implied, or otherwise with respect to any services performed or furnished.**

G. Utilities: Except as otherwise explicitly stated in the proposal, if utility surveys are included in scope of services, utilities will be located from available utility records, utility company locates and surface evidence of underground improvements. Some subsurface improvements may not be disclosed by such methods and CLIENT assumes responsibility for cost of exploratory excavations and other work to assure utility locations.

H. Opinions or Estimates of Project Costs: Where provided by the BMI as part of the Services or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since BMI 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 BMI does not warrant or guarantee the accuracy of construction cost opinions or estimates.

I. Construction Phase Services: It is agreed that BMI and its representatives shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall BMI 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. BMI shall not be responsible for the acts or omissions of any contractor. CLIENT acknowledges that the on-site contractor(s) are solely responsible for construction site safety programs and their enforcement.

J. Ownership of Documents: Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by BMI are instruments of service in respect to the Project and BMI shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall acquire a limited 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.

K. Reuse of Documents: 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 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 BMI for such reuse will be at CLIENT'S sole risk and without liability or legal exposure to BMI and CLIENT shall indemnify and hold harmless BMI from all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from such reuse.

L. Billings and Payments: Payment to BMI will be made by the CLIENT upon billing at intervals not more often than monthly. If CLIENT fails to make any payment for undisputed services and expenses within 45 days after date of the 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. In addition, if the CLIENT fails to make payment for undisputed services and expenses within 60 days after the date of the invoice, BMI may, upon giving seven days' written notice to CLIENT, suspend services and withhold project deliverables due until BMI 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

M. Certificates of Insurance: BMI will maintain, at its expense, statutory worker's compensation insurance coverage, automobile liability insurance, commercial general liability insurance and professional liability coverage for claims arising from bodily injury, death or property damage which may arise from the negligent performance by BMI or its employees. BMI will, upon request, furnish Certificates of Insurance documenting terms of coverages. BMI will not be required to extend coverages beyond those which are usual and customary for similar firms practicing similar surveying and engineering services unless BMI is reimbursed for additional premium expenses.

N. INDEMNIFICATION OF CLIENT: BMI shall indemnify 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 proposed services, 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 negligent acts and omissions of BMI or its employees, agents, or subconsultants.

O. INDEMNIFICATION OF BMI: CLIENT shall indemnify and hold harmless BMI from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from claims or actions relating to the proposed services, 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 negligent acts and omissions of the CLIENT or its employees, agents, or other consultants

P. Waiver of Claims: To the fullest extent permitted by law, Client and BMI waive against each other, and the other's employees, partners, officers, agents, insurers, and subcontractors, claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or any way related to this Proposal and the Services, from any cause or causes. CLIENT waives claims against BMI individual employees and agrees any claim, demand or suit shall be asserted only against the BMI corporate entity.

Q. Jurisdiction and Dispute Resolution: All agreements executed for performance of the Services are to be governed by the law of the State of Minnesota. Any claims or disputes made during or after the performance of services between BMI and the CLIENT shall first be submitted to mediation for resolution prior to bringing an action in a court of competent jurisdiction.

R. Agreement: If the Proposal is accepted, the CLIENT and BMI will enter into an Agreement incorporating the accompanying Proposal, these Terms and such additional terms and conditions as may be mutually acceptable to BMI and CLIENT. In the absence of a separate, executed written agreement, the accompanying Proposal and these Terms of Proposal shall constitute the whole and complete agreement between BMI and the CLIENT.

S. Termination of Services: Any agreement created as provided herein may be terminated by the CLIENT or BMI should the other fail to perform its obligations hereunder; or, by BMI if the presence of an unknown or undisclosed federally, state or locally regulated hazardous material is encountered. In the event of termination, the CLIENT shall pay BMI for all services rendered to the date of termination, all reimbursable expenses, and reimbursable termination expenses.

T. Withdrawal of Proposal: This Proposal constitutes a non-binding offer to perform services and BMI reserves the right to withdraw or modify this proposal, without liability to the CLIENT, at any time prior to execution of a signed agreement.

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: **Consider Increasing Public Works On Call Compensation**

SECTION: New Business

FROM: City Administrator Nick Haggenmiller

BACKGROUND: In 2018 when the City previously completed a class and compensation study, it was noted that our public works staff did not receive a stipend for being on call. On call stipends have become industry norm for nearly all municipalities. At the time the pay study was adopted by council and implemented, a rate of $140 per week was established.

Over the last 5 years, and understandable exacerbated in the last year, the City has fallen behind the market. At the same time, callbacks and on call responsibilities have increased for our staff. Maintenance standards have been established and increased including expectations for the maintenance of our utility system, we have new and expanded recreation areas and even things like requiring flowers to be watered 7 days a week. Finally, capital projects including water meter replacement and failing infrastructure have all placed additional demands of staff. Collectively, an adjustment is merited.

With assistance from David Drown & Associates who is leading our current class and comp study along with our own independent research, we have determined that Howard Lake's current rate of $140 per week is among the lowest. The exception to that is noting various county entities pay considerably less but their scope of duties is much more limited than a city's public works department. Likewise, the highest compensated department is in nearby Annandale at $220 per week but have staff that have expanded duties associated with the operation of the AMLHL Wastewater Treatment Plant. Still, it is notable as Annandale is one of our benchmark cities and has historically had very similar compensation and benefits as Howard Lake. See table below.

Entity	Min	Max	Midpoint	On call	call back hourly
Annandale	21.46	30.23	25.85	220	38.775
Howard Lake	21.64	29.2	25.42	140	38.13

Public Works and Administrative staff believe this to be an urgent enough need to advance forward prior to the full adoption of the final class and compensation study. Council is asked to consider an increase they believe to be reasonable. In review of all data collected, the current market average is about $190 per week. However, that is skewed by county entities and organizations that do not provide the same level of services as Howard Lake.

DECISION MAKING METRICS:

FINANCIAL: The financial impact will vary depending on the implementation rate and date. Regardless, the 2023 Budget is underway and will need to be revised to reflect increases.

LEGAL: Modifying the personnel policy officially is not required. The personnel policy is intentionally vague as it would be difficult to detail all duties and circumstances associated with this matter. Staff is working on an updated, internal Standard Operating Procedure (SOP) that will address specific roles/responsibilities.

STRATEGIC PLAN:

Strategic Initiative – Attract and Retain Talented Public Servants

COUNCIL ACTION REQUESTED: Discuss, approve an increase in compensation as deemed appropriate.

ATTACHMENTS: N/A

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: Consider Satisfaction of Contract for Deed on 603 8th Avenue aka Howard Lake Foods.

SECTION: New Business

FROM: Nick Haggenmiller, City Administrator

BACKGROUND: The City of Howard Lake has been party to a contract for deed with Mark & Lori Custer for 603 8th Avenue, Howard Lake Foods, since 2010. The contract provides the City the opportunity to pre-pay part or all of the balance at any time.

Pursuant to Minnesota Statue 13D.05 the council will enter closed session to discuss terms and conditions associated with the negotiation of purchasing real-estate.

DECISION MAKING METRICS:

FINANCIAL: Open.

LEGAL:

STRATEGIC PLAN:

1. Foster a Robust Business Community
   → Support efforts that lead to a thriving mix of commercial/service/industrial businesses.

COUNCIL ACTION REQUESTED:

ATTACHMENTS: N/A

HOWARD LAKE CITY COUNCIL MEETING

July 18, 2022

AGENDA ITEM: Consider Approving RFP for 603 8th Avenue formerly Howard Lake Foods.

SECTION: New Business

FROM: Nick Haggenmiller, City Administrator

BACKGROUND: About 6 months ago when the operator of the grocery store informed the City of his intentions to exit the business, the City Council directed the administrator to focus efforts on recruiting a grocer in order to retain a full-service grocery store. Efforts were taken to solicit interest in the location. To date, no interested parties have materialized.

Following the closure of Howard Lake Foods, the City has been approached by various individuals and entities interested in the property. Interest has varied greatly from local individuals to developers representing national retailers. Ideas floated have included using the store as-is to renovating to full redevelopment. Gauging the validity and value from one interested party to the next is difficult.

The City has several options to consider:

OPTION 1: Minimal Approach

The City could simply entertain individual offers as they come forward. Doing so would involve the easiest, least amount of staff time and resources. However, doing so, provides almost no assurances that the end user would provide the greatest benefit to the community or even meet statutory requirements regulating how government entities sell property.

OPTION 2: Representation

Any number of entities will express interest in representing the City to market this property. Local realtors, commercial listing firms, auction companies, national firms are all potential examples of entities that may be willing/able to represent the city through their firms.

Inevitably, the City will be subjected to contracts, compete clauses and commissions – items we typically avoid in our other properties held for resale. However, representation would provide for professional services, potentially a larger and/or targeted marketing of the property.

While this option should not be ruled out immediately, staff recommends either going through the initial RFP process first or providing an 'in' through the RFP for this type of service offering.

OPTION 3: Request for Proposals (RFP)

Drafting an RFP is a relatively inexpensive and easy way to gauge interest in the site while also meeting the statutory obligations associated with a local unit of government selling real-estate. Doing so, provides open opportunity to any number of entities, individuals and firms that may be interested in the property. It would also help interested parties show their sincerity and capacity to the City prior to a more formal due diligence, project formation that could include incurring costs for consultants and/or any number of expenses involving the property itself. The challenges with an RFP are broadcasting. We have ideas of where and how to share the RFP as well as a small list of individuals and entities that have already expressed interest. However, by approaching ourselves, we do run the risk of not reaching as many people as officially listing on the MLS or hiring a professional.

About the RFP

- Provides for the opportunity to lease, purchase or redevelop the site in full.
- States the top goal/priority is to maintain a full service grocery store downtown.
- Requires submissions to include basic information about themselves or their firm, stated intention and use of the property along with statements of qualifications for financing and overall capacity to execute a successful project.
- Establishes the following time:
    - Request for Proposals Released — July 19, 2022
    - Initial Due Diligence Period Ends — August 31, 2022
    - Proposal Addendum Issued (if needed) — September 6, 2022
    - Final Proposals Due to City — September 29, 2022

At its discretion, the City Council may add/delete/modify any number of provisions included the RFP. The timeline provided is similar to other RFPs researched by staff and may also be amended at the discretion of council.

DECISION MAKING METRICS:

FINANCIAL: Open.

LEGAL: Minnesota Statute 469.105 "Sale of Property" governs this proposal and related actions/approvals. Assuming a favorable response to the RFP, a much more rigorous legal review will be required to substantiate submissions.

STRATEGIC PLAN:

1. Foster a Robust Business Community
    → Support efforts that lead to a thriving mix of commercial/service/industrial businesses**.**

COUNCIL ACTION REQUESTED: Approve and direct staff to advertise the RFP.

ATTACHMENTS:

1. Request for Proposal Document

Request for Proposals
Reuse of the former Howard Lake Foods Site
July 19, 2022

Introduction

The City of Howard Lake is seeking proposals for the purchase, lease or redevelopment of the former Howard Lake Foods site. Located at 603 8th Avenue in the heart of downtown, on US Highway 12 Howard Lake, the half-acre site is among the most valuable and strategic sites to both the community and possible investors.

Respondents may express interest in lease, purchase, or full redevelopment of the site. The successful respondent will enter into exclusive negotiations with the City for the end use of the site.

Please note, the intent of this RFP is to provide equal opportunity to interested parties and to find the best, long term user for the property. Strictly speculative interest is not permitted.

Entities that are interested in marketing the property or have services to offer that may be of interest to the City are encouraged to submit a proposal and delineating services under section 1.1 of the RFP.

Background

Downtown Howard Lake has been served by various grocery stores, in multiple sites for over 75 years. In 1974, the current site and building were constructed and operated as a SuperValue grocery store. The store would see several operators before ultimately shuttering in 2005. The building would remain empty until 2010 when a public-private-partnership formed between the City and a proposed grocer. The building was fully renovated including the exterior and interior as well as the purchase of all furniture, fixtures, and equipment. For the last 12 years, the City has acted as a hands-off landlord providing for the opportunity for the grocery operator to run their business on their own. The building as it remains today, is turn-key ready as a full-service grocery store with all furniture, fixtures and equipment in-tact. The location has been cleared of all inventory, product and third party vendor displays.

While city leadership remains hopeful a full-service grocer will once again fill the space, the City is also realistic to the competitive landscape and promotes the free market. Therefore, the City will be very receptive to all viable to reuses of the existing building/site as well as the full redevelopment of the site.

Vision and Intended Outcomes

The City of Howard Lake envisions an end use and user to the site that is considered essential to the economic and social vitality of the community. Specifically, will address the following outcomes:

1. Fill a demonstrated retail or service gap and spur complimentary activity downtown.
2. Create jobs and make physical improvements to the site that will increase the value of the site.
3. Provide enduring value and benefit to the Howard Lake community.

Legal Compliance

Minnesota Statute 469.105 may apply in the event of a proposed sale of the site. The City will not provide any reimbursement for expenses associated with responding to the RFP. The City reserves the right to reject any or all submittals, or to withhold the award for any reason it may determine, and to waive or not to waive any informalities or irregularities in any proposals. All information regarding the content of the specific proposals will remain confidential until a contract is finalized, or all proposals are rejected, pursuant to the requirements of the Minnesota Government Data Practices Act.

Proposal Requirements

Proposals should include the following:

1. Developer team experience and qualifications
    a. Project team list, including firms and key team members
    b. Experience with at least 2 similar projects
    c. References for the projects identified

1.1 Marketing/Commercial Listing/Auction or other Service Provider Information
    a. Company name, project team list including firm and key team members.
    b. Summary of Services Available
    c. General terms including cost/commission etc.
    d. Examples of similar successful efforts and the services provided.

Section 1.1 is only required for interested entities that are soliciting a service associated with the property rather than an end user.

2. Development concept narrative and site plan
    a. Describe the proposed development, business or use of the property.
    b. Concept-level site plans / renderings
    c. Description of how the proposed development meets the City's goals for downtown.
    d. Proposed terms concerning the purchase or exclusion of existing furniture, fixture and equipment.
3. Project timeline
    a. Identify key milestones
4. Project finances
    a. Purchase price or General Lease Terms
    b. Proposed budget, including sources and uses
    c. Financial capability to successfully execute project and operate a business.
    d. Proposed business subsidies, incentives and/or requests of the city.

Evaluation of Proposals

All proposals received by the deadline will be reviewed by the City of Howard Lake to determine if the proposal is responsive to the RFP. If staff determines a proposal is responsive, it will be accepted and move on to the next step. If a proposal is determined to be non-responsive, it will be rejected.

A responsive proposal will:

- Follow the format and sequence specified in this RFP.
- Complete and submit all required documentation described in this RFP.
- Clearly identify how the proposed project meets the goals and vision of the City of Howard Lake.

Item		Benchmarks	Percent of Total Score
1	Project Alignment with the City's vision, needs and goals	A higher scoring project will: Clearly identify project alignment with the goals and guidance outlined within this RFP and reference documents. A lower scoring project will: Fail to show how the proposed project meets the goals and vision of the City.	30%
2	Qualifications	A higher scoring project will: Clearly identify 2 or more similar projects that members of the team have completed in the past. A lower scoring project will: Fail to show a track record of completing projects of a similar scale. *In lieu of a professional portfolio, demonstrating capacity to execute a successful project, business etc. will be considered.*	30%
3	Future economic development potential	A higher scoring project will: Clearly identify the future economic development impact that the redevelopment will bring to downtown. A lower scoring project will: Fail to show economic development potential of the proposed redevelopment or be speculative in nature.	25%
5	Project Timeline	A higher scoring project will: identify a realistic and reasonable timeline to complete the proposed redevelopment. A lower scoring project will: Propose an unrealistic timeframe.	10%
6	Purchase price or lease terms	A higher scoring project will: provides for the highest and best use for the property. A lower scoring project will: have a lower value, reduced rent or short lease length proposed.	5%
TOTAL	**100%**		100%

Submittal of Proposals

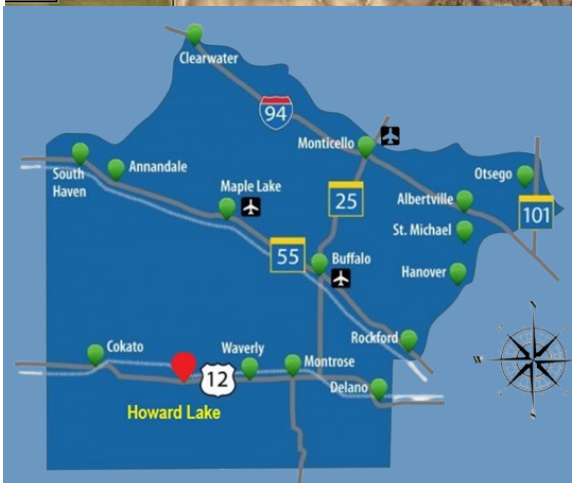
Inquiries, site walkthroughs and data requests are optional and may be requested prior to submission of proposals during the initial due diligence period listed below.

Request for Proposals Released	July 19, 2022
Initial Due Diligence Period Ends	August 31, 2022
Proposal Addendum Issued (if needed)	September 6, 2022
Final Proposals Due to City	September 29, 2022

Nick Haggenmiller
City Administrator
Cityadmin@howard-lake.mn.us

Electronic Submissions Only

We want YOU to call Howard Lake Home!

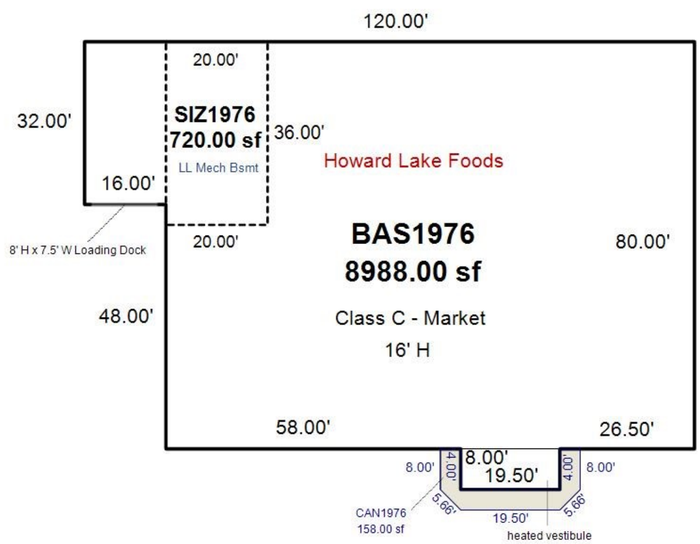


Community and Market Information

- 2,500 residents and growing
- 7,070 people in trade area (2 miles of city)
- 35+/- annual residential startups
- Full-service community with police, fire, ambulance, Ridgeview Medical Clinic, assisted living, nursing home, 10+ apartment complexes, established commercial and industrial developments.
- Good Neighbor Days Community Celebration (5,000 visitors)
- Wright County Fair (80,000 visitors)
- Codger's Cove RV Campground (110 units April – October)

Real Estate Information

- 603 8th Avenue, Howard Lake
- Built 1974
- **Fully Renovated 2010**
    - Roof, HVAC, Deli Equipment, POS system, coolers/freezers & compressors, LED lighting, carpeting and more!
- 8,900 square feet building
- Concrete block construction
- US Highway 12 frontage
    - 11,500 average daily traffic count
- 20 off street parking spots + adjacent public lots
- Raised loading dock
- Centrally located downtown



Central Business District


HOODZ
HENNY PENNY
RECIPES


BELLE
HARVEST


HOBART


Installation By
ST. CLOUD
REFRIGERATION
320-251-6861
24 Hour Emergency Service
DANGER


pepsi
pepsi
Howard Lake Foods
Howard Lake Foods


EXIT
AngusPride


AngusPride
The choice beef lovers make.
Smithfield