



**AGENDA FOR
REGULAR CITY COUNCIL MEETING
TUESDAY, DECEMBER 17, 2024 – 6:00 P.M.**

1. **Pledge of Allegiance**
2. **Call to Order**
 - Roll Call and Establishment of Quorum
3. **Approval of Agenda**
 - Council Changes
 - Staff Changes
4. **Approval of Minutes**
 - A. December 3, 2024
5. **Audience Participation** (10-minute time limit for items not on the agenda)
6. **Consent Agenda**
 - A. Approve 2025 Business License Applications
7. **Scheduled Public Hearings**
8. **Old Business**
9. **Regular Agenda**
 - A. 2025 Final Levy, Payments in Lieu of Taxes and Final Budget – Resolutions #80, 81 & 82
 - B. 2025 Rates for Purchased Power Avoidance Cost – Resolution #83
 - C. 2025 Pay Plan for Part-Time, Seasonal, and Independent Contractors – Resolution # 84
 - D. Minnesota Department of Education Library Expansion Grant Agreement – Resolution #85
 - E. Bolton & Menk Master Agreement for 2025 Engineering Services – Resolution #86
 - F. Unified Development Ordinance Amendments for Cannabis Businesses – Ordinance #94
 - G. Law Enforcement Lease Agreement – Security Addendum
10. **Other Items and Communications**
 - A. Council Items
 - B. Staff Items
11. **Paid Bills and Claims – For Informational Purposes**
 - A. City of Redwood Falls Accounts Payable Summary
12. **Adjournment**

**MINUTES
REGULAR COUNCIL MEETING
CITY OF REDWOOD FALLS, MINNESOTA
TUESDAY, DECEMBER 3, 2024**

Pursuant to due call and notice thereof, a regular meeting of the Redwood Falls City Council was called to order in the Municipal Chambers on Tuesday, December 3, 2024, at 5:00 p.m.

Roll call indicated Mayor Tom Quackenbush and Council Members Matt Smith, Denise Kerkhoff, Larry Arentson, and John T. Buckley were present, constituting a quorum. Council Member Jim Sandgren was absent.

Also present were City Administrator Keith Muetzel, Finance Director Kari Klages, City Attorney Trenton Dammann, Public Works Project Coordinator Jim Doering, and Deputy City Clerk Caitlin Kodet.

A motion was made by Council Member Kerkhoff and seconded by Council Member Arentson to approve the agenda. Motion passed by unanimous vote.

A motion was made by Council Member Smith and seconded by Council Member Buckley to approve the November 12, 2024, minutes as presented. Motion passed by unanimous vote.

A motion was made by Council Member Smith and seconded by Council Member Arentson to approve the following items on the Consent Agenda:

1. 2025 Business License Applications
2. Request to Waive Sanitary Sewer Charges – 324 South DeKalb Street

Motion passed by unanimous vote.

Finance Director Klages introduced Resolution No. 73 of 2024 – A Resolution Accepting A Donation To The City.

Ms. Klages stated Minnesota Statutes, Section 465.03 gives the City authority to receive donations and requires them to be formally accepted by resolution, adopted by a two-thirds vote of the Council. Resolution No. 73 of 2024 is to accept a financial donation for the Redwood Falls Fire Department in the amount of \$1,000.00 from Minnwest Bank.

A motion was made by Council Member Buckley and seconded by Council Member Kerkhoff to waive the reading of Resolution No. 73 of 2024 – A Resolution Accepting A Donation To The City. Motion passed by unanimous vote.

A motion was made by Council Member Arentson and seconded by Council Member Smith to approve Resolution No. 73 of 2024 – A Resolution Accepting A Donation To The City. Motion passed by unanimous vote.

Parks & Recreation Director Ross Nachreiner introduced Resolution No. 74 of 2024 – A Resolution Accepting A Donation To The City.

Mr. Nachreiner stated Resolution No. 74 of 2024 is to accept a financial donation in the amount of \$10,000.00. The Redwood Valley Baseball Association & Redwood American Legion Post #38 each gave \$5,000.00. These donations will go towards the construction costs of the new bathroom facility at the Memorial Park Baseball Field.

Mr. Nachreiner stated Staff would like to thank members of the Redwood Valley Baseball Association & Redwood American Legion Post #38 for their generous donation. Their continued support has helped make some much-needed improvements over the past 10 years. Staff is requesting approval to accept the financial donations from The Redwood Valley Baseball Association & Redwood American Legion Post #38 in the amount of \$10,000.00.

A motion was made by Council Member Kerkhoff and seconded by Council Member Buckley to waive the reading of Resolution No. 74 of 2024 – A Resolution Accepting A Donation To The City. Motion passed by unanimous vote.

A motion was made by Council Member Smith and seconded by Council Member Arentson to approve Resolution No. 74 of 2024 – A Resolution Accepting A Donation To The City. Motion passed by unanimous vote.

Parks & Recreation Director Ross Nachreiner introduced Resolution No. 75 of 2024 – A Resolution Accepting A Donation To The City.

Mr. Nachreiner stated Resolution No. 75 of 2024 is to accept a financial donation in the amount of \$15,000 from Dennis Honetschlager for dog park improvements. City Staff would like to thank Dennis Honetschlager for his generous donation. Staff is requesting approval to accept the financial donation from Dennis Honetschlager in the amount of \$15,000.00.

A motion was made by Council Member Arentson and seconded by Council Member Buckley to waive the reading of Resolution No. 75 of 2024 – A Resolution Accepting A Donation To The City. Motion passed by unanimous vote.

A motion was made by Council Member Kerkhoff and seconded by Council Member Smith to approve Resolution No. 75 of 2024 – A Resolution Accepting A Donation To The City. Motion passed by unanimous vote.

Public Utilities Superintendent Jason Halvorson was present to introduce Resolution No. 76 of 2024 – Authorization To Execute Purchase Of Materials For The 2025 Distribution Improvements.

Mr. Halvorson stated the 2025 Distribution Improvements, DGR Project No. 421127, were approved by Council on September 17, 2024. To complete the project, certain materials needed to be bid. The bids were received and opened on Thursday, November 21, 2024, at 1:15 p.m. at City Hall. Six (6) bids were received, the results of the bids have been reviewed and tabulated by DGR and provided to Council for consideration. The total cost of all the bids is \$729,659.41. Staff recommends the contracts be awarded as presented; Bid #1 for Padmounted Switchgear and Box Pads to Irby Utilities for \$163,506.00; Bid #2 for 15KV Primary Wire to Irby Utilities for \$251,025.75; Bid #3 for Single Phase Transformers and Box Pads to RESCO for \$242,642.06; and Bid#4 600V Secondary Wire to RESCO - \$72,485.60.

A motion was made by Council Member Smith and seconded by Council Member Buckley to waive the reading of Resolution No. 76 of 2024 – Authorization To Execute Purchase Of Materials For The 2025 Distribution Improvements. Motion passed by unanimous vote.

A motion was made by Council Member Arentson and seconded by Council Member Kerkhoff to approve Resolution No. 76 of 2024 – Authorization To Execute Purchase Of Materials For The 2025 Distribution Improvements. Motion passed by unanimous vote.

Finance Director Klages introduced Resolution No. 77 of 2024 – Resolution Establishing Rates for Municipal Electric Utilities.

Ms. Klages stated every year, DGR updates the overall cash flow projections and proposes any necessary rate changes. The proposed rates have been developed to provide an overall increase in revenues of 4%. Staff recommend approval of the proposed 2025 electric rates.

A motion was made by Council Member Smith and seconded by Council Member Buckley to waive the reading of Resolution No. 77 of 2024 – Resolution Establishing Rates for Municipal Electric Utilities. Motion passed by unanimous vote.

A motion was made by Council Member Arentson and seconded by Council Member Kerkhoff to approve Resolution No. 77 of 2024 – Resolution Establishing Rates for Municipal Electric Utilities. Motion passed by unanimous vote.

Finance Director Klages introduced Resolution No. 78 of 2024 – Resolution Adjusting Water, Sanitary Sewer, and Storm Sewer Service Charges.

Ms. Klages stated in January of this year, Council approved moving away from using DGR to perform the annual rate studies for water, sanitary sewer, and storm sewer to using Waterworth, a cloud-based software, for a more hands-on continuous utility rate management approach. Staff worked throughout the year with consultants at Waterworth to onboard the City's utility billing data into the software, as well as to build future cash flow projections, and proposed rate adjustments. Staff then held two meetings with the budget committee in which multiple rate options were reviewed. Two major focal points for setting 2025 rates focused on the need to increase base charges to keep up with the cost of infrastructure replacement, as well as looking at billing equity between various customer classes (commercial versus residential). To address both these areas, a new commercial infrastructure base rate is being proposed for water and sanitary sewer utilities and the budget committee recommends the rate adjustments for 2025.

Ms. Klages stated the proposed water rates provide an increase of 5% per 100 cubic feet sold, increase the residential infrastructure replacement charge by \$1.55, and increase the commercial infrastructure replacement charge by \$7.30. The sanitary sewer rates have been developed to provide an increase of 10% per 100 cubic feet used, increase the residential infrastructure replacement charge by \$1.96, and increase the commercial infrastructure replacement charge by \$5.21. The storm sewer rates have been developed to provide an increase of 8% per infrastructure replacement charge. Staff recommends approval of the proposed 2025 rates.

A motion was made by Council Member Smith and seconded by Council Member Buckley to waive the reading of Resolution No. 78 of 2024 – Resolution Adjusting Water, Sanitary Sewer, and Storm Sewer Service Charges. Motion passed by unanimous vote.

A motion was made by Council Member Arentson and seconded by Council Member Kerkhoff to approve Resolution No. 78 of 2024 – Resolution Adjusting Water, Sanitary Sewer, and Storm Sewer Service Charges. Motion passed by unanimous vote.

Finance Director Klages introduced Resolution No. 79 of 2024 – Resolution Setting Fee Schedule for 2025.

Ms. Klages stated City Staff reviewed the proposed fee schedule. Proposed changes to the 2025 Fee Schedule are indicated in red, fees in purple are set by City Resolution or City Ordinance, and the fees in blue are set or limited by State Statute. Staff is recommending approval of the proposed 2025 Fee Schedule.

A motion was made by Council Member Arentson and seconded by Council Member Buckley to waive the reading of Resolution No. 79 of 2024 – Resolution Setting Fee Schedule for 2025. Motion passed by unanimous vote.

A motion was made by Council Member Kerkhoff and seconded by Council Member Smith to approve Resolution No. 79 of 2024 – Resolution Setting Fee Schedule for 2025. Motion passed by unanimous vote.

City Administrator Muetzel introduced the RFPEA Contract Renewal.

Mr. Muetzel stated City Staff has met with the Redwood Falls Public Employees Association (RFPEA) bargaining committee to negotiate the renewal of the RFPEA contract. The existing RFPEA contract covers the water/wastewater operators, street maintenance workers/mechanic, and full-time liquor store clerks. A tentative contract agreement was reached and is subject to formal approval by the RFPEA membership. The proposed contract duration will be three (3) years and expire on December 31, 2027. The proposed contract increases the annual uniform allowance from \$400.00 to \$550.00 and paid out with bi-weekly payroll as well as increases the maximum amount of sick leave paid out as severance by 75 hours per tier, effective December 31, 2027.

Mr. Muetzel further stated the proposed contract would place RFPEA members within the following pay grades as recommended by the 2024 Employee Classification and Compensation Study; Water/Wastewater Foreman placed at pay grade six (6), Water/Wastewater Operator and Street Maintenance Foreman placed at pay grade five (5), Street Maintenance Worker/Mechanic placed at pay grade four (4), and Liquor Store Clerk placed at pay grade one (1). Subsequent steps will increase by three percent (3%) during each year of the contract. There are also a couple of other minor contract language changes to comply with the new State of MN Earned Sick and Safe Time Law.

A motion was made by Council Member Smith and seconded by Council Member Kerkhoff to approve the proposed RFPEA Contract Renewal for 2025, 2026, and 2027. Motion passed by unanimous vote.

Human Resources Coordinator Sheila Stage was present to introduce the Implementation of Class and Compensation Study for Non-Union Employees.

Ms. Stage stated in early 2024, City Staff worked with DDA Human Resources Inc. to complete an Employee Classification and Compensation Study. The study involved an evaluation of full-time positions to ensure that jobs are appropriately classified and meet FLSA guidelines, ensure pay is externally competitive and internally equitable, provide policies and procedures to keep the compensation system up-to-date, and develop compensation system that is easy to understand and administer.

Ms. Stage stated the market analysis component of the study identified 19 cities and one county that were used as a comparable peer group. Factors considered in establishing the peer group include geographic proximity, population, services provided, employment retention, and recruiting trends. DDA gathered job duties and wage data from the peer group to compare the City's actual compensation with that of the market. For each position, the difference between the City's actual compensation and the market was calculated and positions that were within +/- 10% were considered to be aligned with the market.

Ms. Stage further stated the results of the market analysis were used to develop a new salary structure for the entire organization. The new salary structure includes 14 pay grades and there are 11 steps within each grade. On January 1, 2025 employees will be assigned a pay grade and placed within the proposed salary structure at the next step that is closest to their salary with a 2% minimum increase. Steps will be increased by 3% in January of 2026 and 2027. The proposed pay plan will be in effect until December 31, 2027, which aligns with the City's three union agreements. The City currently has four separate salary structures, one for each bargaining group. Upon implementation of the new salary structure, all full-time employees (union and non-union) will be on the same salary structure and there will no longer be a separate salary structure for each bargaining group. Staff recommend approval of the proposed salary structure.

A motion was made by Council Member Buckley and seconded by Council Member Smith to approve the Implementation of Class and Compensation Study for Non-Union Employees. Motion passed by unanimous vote.

City Administrator Muetzel introduced the IT Coordinator Position.

Mr. Muetzel stated the hiring committee has completed the selection process for the IT Coordinator position. The committee interviewed seven applicants and recommends approval of the employment offer to Noah Johnson. Noah has an associate degree in computer and networking technology and currently works as a technology coordinator for the SWWC Service Cooperative and is an adjunct instructor at the Minnesota West Community and Technical College. Mr. Johnson will start on January 6, 2025 with a starting salary at Grade 7, Step 3 of the 2025 City of Redwood Falls Step Structure.

A motion was made by Council Member Arentson and seconded by Council Member Buckley to approve the IT Coordinator Position employment offer to Noah Johnson. Motion passed by unanimous vote.

Council Member Buckley stated resident Don Hazen approached him with the idea of starting a commission or committee for tree beautification. A group will be needed to address the impending effects of Emerald Ash Borer. A tree committee would address the removal and replacement needs.

City Administrator Muetzel stated the next City Council Meeting is scheduled for December 17, 2024 at 6:00 p.m.

Bills and Claims were presented to the Council for informational purposes. No questions, comments or concerns were raised.

There being no further business, a motion was made by Council Member Kerkhoff and seconded by Council Member Smith to adjourn the meeting at 5:55 p.m. Motion passed by unanimous vote.

ATTEST:

Keith Muetzel
City Administrator

Tom Quackenbush
Mayor



Caitlin Kodet
Deputy City Clerk
Phone: 507-616-7400
Fax: 507-637-2417
ckodet@ci.redwood-falls.mn.us

AGENDA RECOMMENDATION

Meeting Date: December 17, 2024

Agenda Item: Business License Renewal Applications

Recommendation/Action Requested: The following establishment has completed the necessary application process for a **2025** license. Therefore, it is recommended that City Council approve the issuance of the following licenses contingent on receiving the updated 2025 certificates of liability insurance as needed:

ON SALE LIQUOR:

- Bridge Street Cuisine, Inc. dba The Falls Café
- Kaufenberg Restaurant LLC dba Rubi's Kitchen & Cantina

ON SALE SUNDAY LIQUOR:

- Bridge Street Cuisine, Inc. dba The Falls Café
- Kaufenberg Restaurant LLC dba Rubi's Kitchen & Cantina



Kari Klages
Finance Director
City of Redwood Falls
Phone: 507-616-7400
Fax: 507-637-2417
kklages@ci.redwood-falls.mn.us

AGENDA MEMO

Meeting Date: December 17, 2024

Agenda Item: Enabling 2025 Tax Levy, Payments in Lieu of Taxes, and Final Budget

Recommendation/Action Requested: Read the proposed Resolutions or make a motion to waive the reading of the Resolutions. Discuss the proposed Resolution. If no concerns, adopt proposed Resolutions by motion in accordance with Chapter 4 of the City Charter. Each Resolution needs its own motion.

Summary/Overview: State law requires local units of government to adopt and certify their final 2025 property tax levies and budgets by December 30, 2024. The 2025 preliminary levy and budget were approved on September 17, 2024, and included a tax levy increase of 7.9%. The proposed final levy and budget has dropped the preliminary increase by 0.9% with a final proposed levy increase of 7.0%.

Attachments: Resolution No. 80 of 2024 – Approving 2025 Property Tax Levy
Resolution No. 81 of 2024 – Approving 2025 PILOT
Resolution No. 82 of 2024 – Approving 2025 Final Budget

RESOLUTION NO. 80 OF 2024
RESOLUTION LEVYING AD VALOREM TAXES
FOR THE YEAR 2025
FOR THE CITY OF REDWOOD FALLS

BE IT RESOLVED, by the City of Redwood Falls, Minnesota as follows:

That the following be levied for Ad Valorem taxes for the year 2025 for the following purposes as shown:

General Tax Levy

General	\$ 2,857,941
Library	\$ 503,219
Port Authority	\$ 89,232
Subtotal General Levy	<u>\$ 3,450,392</u>

Debt Service:

2021A Fire Equipment Bonds	\$ 145,184
2022A Drew Street Bonds	\$ 149,625
Subtotal Debt Service	<u>\$ 294,809</u>

Abatements:

Garnette Gardens Tax Abatements	\$ 4,256
Redwood Property Holdings Tax Abatement	\$ 13,982
Snug as a Bug Childcare Abatement	\$ 8,196
Subtotal Abatements	<u>\$ 26,434</u>

TOTAL PROPOSED 2025 TAX LEVY **\$ 3,771,635**

PASSED AND ADOPTED by the City Council of the City of Redwood Falls this 17th day of December 2024.

ATTEST:

Keith T. Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this
_____ day of _____, 2024.

Notary Public

RESOLUTION NO. 81 OF 2024

RESOLUTION APPROVING 2025 PAYMENTS IN LIEU OF TAXES

BE IT RESOLVED, by the City of Redwood Falls, Minnesota as follows:

That the 2025 Final Payments in Lieu of Taxes as shown below are approved.

	2025 <u>PILOT's</u>
Electric Utility	\$ 421,000
Water Utility	\$ 105,305
Sanitary Sewer	\$ 72,069
Storm Sewer	\$ 21,761
Liquor	<u>\$ 120,000</u>
	\$ 740,135

PASSED AND ADOPTED by the City Council of the City of Redwood Falls this 17th day of December 2024.

ATTEST:

Keith T. Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this
_____ day of _____, 2024.

Notary Public

RESOLUTION NO. 82 OF 2024

RESOLUTION APPROVING 2025 FINAL BUDGETS

BE IT RESOLVED, by the City of Redwood Falls, Minnesota as follows:

That the 2025 Final Budgets as shown below are approved.

	<u>Revenues</u>	<u>Expenditures</u>
General Fund	\$ 7,790,511	\$ 7,790,511
Library	\$ 564,448	\$ 564,448
Airport	\$ 385,812	\$ 364,946
Park Development	\$ 100	\$ -
Fire Equipment	\$ 207,119	\$ 139,620
Port Authority	\$ 141,732	\$ 138,900
Revolving Loan	\$ 8,000	\$ 150
Downtown Loan Program	\$ 4,944	\$ 65
Community Development	\$ 64,112	\$ 40,447
TIF#10-1 Runnings Redevelopment	\$ 72,400	\$ 17,674
Drew Street GO Bond 2022A	\$ 149,625	\$ 144,060
G.O. PIR Fund Bonds	\$ 60,269	\$ 57,177
Airport Capital Improvements	\$ 5,471,165	\$ 5,609,579
Reflections Project	\$ -	\$ -
Capital Projects	\$ 224,100	\$ 166,100
Water Utility	\$ 2,132,104	\$ 2,125,928
Sanitary Sewer Utility	\$ 1,459,485	\$ 1,819,395
Storm Sewer Utility	\$ 450,218	\$ 493,605
Electric Utility	\$ 8,018,773	\$ 10,687,055
Liquor	\$ 2,635,500	\$ 2,744,181
Central Garage	\$ 877,582	\$ 1,475,921
Self Insurance	\$ 1,536,881	\$ 1,546,868
	<u>\$ 32,254,880</u>	<u>\$ 35,926,631</u>

PASSED AND ADOPTED by the City Council of the City of Redwood Falls this 17th day of December 2024.

ATTEST:

Keith T. Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this
_____ day of _____, 2024.

Notary Public



AGENDA MEMO

Meeting Date: December 17, 2024

Agenda Item: Resolution No. 83 of 2024 – Establishing Rates for Purchased Power Avoidance Cost

Recommendation/Action Requested: Read the Resolution or make a motion to waive the reading of the Resolution. Discuss the proposed Resolution. If no concerns, adopt proposed Resolution by motion in accordance with Chapter 4 of the City Charter.

Summary/Overview: Consideration of attached enabling resolution which, if adopted, would enact the electric utility purchased power avoidance cost rates as of Jan 1, 2025. Schedule 2 contains the rates for solar power reimbursement. The City of Redwood Falls will reimburse using the Annual All Hours rate of \$.03321 per kilowatt hour. Staff recommends approval.

Attachments: Resolution 83 of 2024
SMMPA Average Incremental Cost Schedule 2

RESOLUTION NO. 83 OF 2024

**RESOLUTION ESTABLISHING
RATES FOR PURCHASED POWER AVOIDANCE COST**

WHEREAS, the City of Redwood Falls, through its Redwood Falls Public Utilities ("Utilities"), owns, operates and maintains a municipal utility which, amongst other services, provides retail electric services to approximately 2,900 customers; and

WHEREAS, Redwood Falls City Charter § 11.02 provides that the Redwood Falls City Council ("Council"), may by resolution establish rates, fares and prices for municipal utilities and services, but that such rates, fares and prices shall be established after study of commission recommendations; and

WHEREAS, Redwood Falls City Code § 2.52 establishes a Public Utilities Commission ("Commission"), who is charged with the responsibility to recommend to the Council rates and charges to be made for services furnished by the Utilities; and

WHEREAS, Redwood Falls City Code § 3.02 provides that rates and charges for municipal utilities shall be fixed, determined and adopted by resolution of the Council, said resolution containing the effective date thereof, kept on file and open to inspection in the office of the City Administrator, be uniformly enforced, and, if the various types of service are categorized and classified, such categorization and classification be included in said resolution.

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

- 1. Electric Rate Schedule.** Solar power generation by customers will be reimbursed at the rates filed with the Minnesota Public Utilities Commission on Schedule 2 – Average Incremental Cost.
- 2. Effective Date.** The rates established by this Resolution shall be effective as of Jan 1, 2025, for electricity billed in January 2025 and payable in February 2025 and shall supersede any previous Resolutions.
- 3. Public Inspection.** A printed copy of this Resolution shall be made available for inspection by any person at the office of the City Administrator during normal business hours.

PASSED AND ADOPTED by the City Council of the City of Redwood Falls, Minnesota this 17th day of December 2024.

ATTEST:

Keith Muetzel
City Administrator

(City Seal)

Tom Quackenbush
Mayor

Subscribed and sworn to before me this
17th day of December 2024.

Notary Public

SCHEDULE 2 – AVERAGE INCREMENTAL COST

Estimated Marginal Energy Costs (\$/MWh)						
		2025	2026	2027	2028	2029
Summer	On Peak	42.20	43.97	47.29	48.58	50.18
	Off Peak	25.13	26.83	26.25	28.57	29.86
	All Hours	32.98	34.71	35.93	37.78	39.21
Winter	On Peak	38.73	44.69	47.81	47.81	48.44
	Off Peak	28.94	33.73	37.73	39.35	41.85
	All Hours	33.44	38.77	42.37	43.53	45.97
Annual	On Peak	40.46	44.33	47.55	48.51	50.49
	Off Peak	27.04	30.28	31.99	33.96	35.85
	All Hours	33.21	36.74	39.15	40.65	42.59
Annual # hours on-peak:						

Description of season and on-peak and off-peak periods	
Summer:	April through September
Winter:	October through March
On-peak period:	6 am to 10 pm Monday through Friday except holiday (New Years, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day)
Off-peak period:	All other hours

Estimated Marginal Energy Costs

The estimated system average incremental energy costs are calculated by seasonal peak and off-peak periods for each of the next five years. For each seasonal period, system incremental energy costs are averaged during system daily peak hours, system daily off-peak hours, and all hours in the season. The energy costs are increased by a factor equal to 50 percent of the line losses.

The energy needs of Redwood Falls Public Utilities are served through its membership in Southern Minnesota Municipal Power Agency (SMMPA). SMMPA, in turn, is a member of the Midcontinent ISO (MISO). As a result, the municipal’s incremental energy cost is equivalent to the MISO hourly Locational Marginal Price (LMP). Actual hourly LMP will vary significantly based on several parameters such as weather, energy demand, and generation availability. The table above represents a forecast of the MISO hourly LMP values averaged over each specific time period at the MISO Minnesota Hub.

Capacity Payment for Firm Power (Net annual avoided capacity cost)

A capacity payment will be made for energy delivered by the qualifying facility to the utility with at least a 65 percent on-peak capacity factor in the month. The capacity factor is based upon the qualifying facility's maximum on-peak metered capacity delivered to the utility during the month. The capacity component applies only to deliveries during on-peak hours.

Capacity Payment (\$/kWh)	
	2025
Capacity Value per kWh (on-peak hours)	\$0.002
Capacity Value per kWh (all hours)	\$0.001

Date: December 17, 2024

Agenda Item: 2025 Pay Plans for Non-union Employees including Part-time, Seasonal, and Independent Contractors and Review – Resolution #84.

Recommendation/Action Requested: Read the proposed Resolution or make a motion to waive the reading of the Resolution. Discuss the proposed Resolution. If there are no concerns, the Resolution needs to be approved by motion in accordance with Chapter 4 of the City Charter, approving the follow items:

1. Approve Non-Union “2025 Pay Plan” for all Part-time, Seasonal, and Independent Contractors.

Summary/Overview:

1. 2025 Pay Plans for all Part-time and all other than regular full-time employees (excluding Part-time Liquor Store Clerks, Library Clerks and Firefighters).

It has been recommended to adjust these employees’ base pay by \$1.25 per hour for 2025. This is an increase of .25 cents over years past to try and keep up with competitive pay for employees working many nights, weekends, and seasonal positions.

2. Seasonal Employees Pay Plan for 2025:

It has been recommended that Seasonal Staff that return will receive a \$.50 an hour increase as returning staff (from 2024) plus a base pay increase of \$1.00 per hour for 2025. This pay increase is to try and keep pay competitive for our seasonal staff who fill a variety of positions and work nights and weekends during our peak seasons at the Pool and RACC.

3. Part-time Liquor Store Clerk & Library Clerk Pay Plan for 2025.

It has been recommended to adjust these employees’ base pay increase of \$1.00 per hour for 2025. This pay increase is to try and keep pay competitive. We feel this change will help us to compete with other part-time positions in the area that work mainly at night and weekend hours. Library employees will see this increase as of January 1, 2025. For Liquor Store employees their increase from the step pay plan will take place on their anniversary date.

Attachments: 2025 Parks & Recreation Pay Plan
2025 City Part-Time Employee Pay Plan
Resolution #84

RESOLUTION NO. 84 OF 2024

**A RESOLUTION SETTING AND ADOPTING THE
2025 PAY PLANS AND PAY STEP STRUCTURE FOR PART-TIME & SEASONAL NON-
UNION EMPLOYEES**

WHEREAS, per Section 5.1 of the City Personnel Policy, the policy of the City of Redwood Falls is to maintain a wage and salary schedule sufficient to fairly compensate the employee for work performed; to treat employees fairly in all cases; and to keep the City as an employer in a competitive position for recruiting and to maintain top quality and well motivated personnel to provide the necessary functions and services required of a local government; and

WHEREAS, the City of Redwood Falls is conscious of the inflationary factor within our region as well as keeping in sight occurrences within Redwood Falls and other cities in determining their Pay Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF REDWOOD FALLS, AS FOLLOWS:

1. The attached schedules shall be made a part of this Resolution by reference and shall constitute the updated compensation schedules to be implemented in 2025 as indicated for the employee groups.

PASSED AND ADOPTED by the City Council of the City of Redwood Falls this 17th day of December 2024.

ATTEST:

Keith Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this _____ day of
December 2024.

Notary Public



CITY OF REDWOOD FALLS 2025 PAY PLAN
01/01/2025

Full-time regular employees shall be compensated in accordance with the appropriate pay scale for the position classification. Initial placement within the respective range and advancement within the range shall be at the discretion of the City. The City reserves the right to re-examine and modify the ranges accordingly. Advancement within the pay range is not automatic and the City reserves the right to withhold, delay, or advance the pay scale movement for an employee.

Part-Time Regular: (Regular employees working less than 30 hours per week.)

*Minimum wage is currently \$11.13/hour as of 1/1/2025.

Federal minimum wage for the Fire Fighters is \$7.25/hr.

City Firefighter pay is \$10.25/hr. for 2025.

***Salary Increases:** Part-time regular employees (other than Fire Dept & After-Hours Building Custodian) will be eligible for a \$1.00 base pay increase on January 1st of 2025. New Hire part-time regular employees will also be eligible for a \$.50 increase after a 6-month probationary period with a successful evaluation. Evaluations will be done on all part-time regular employees at the end of their 6-month probationary period. **Employee hourly pay will not be allowed to exceed the range maximums unless approved by the City Administrator.**

POSITION	2025
Library Clerk	\$15.00 - \$18.00
Liquor Store Clerk (See page 2 for details)	\$15.00 - \$21.00
After Hours Building Custodian	\$20.00 - \$30.00

POSITION	2025
Firefighters	\$10.25/hour
Fire Chief	\$4,200/year
Fire Marshall	\$1,500/year
Assistant Fire Chief	\$2,700/year
2 nd Assistant Fire Chief	\$1,200/year
Training Officer	\$1,200/year
Secretary	\$1,200/year
Mechanics	\$750/year
Treasurer	\$780/year
Community Service Officer (CSO)	\$16.00 - \$20.00/hr.

POSITION	2025
Election Judges	\$14.00
Registrations/HCFMV Judges	\$15.00
Head Judges	\$17.00
Seasonal Street Maintenance Workers	\$16.50 - \$20.00 <i>Yearly Increase: \$.50/hr. over previous year starting rate.</i>

*Temporary/Seasonal: Employees may be either full-time or part-time but work only during peak demand periods of the year or for a specific project and should not exceed six continuous months of employment

2025

Liquor Store Clerk Pay Plan	
Months/Years of Service	Hourly Rate
Starting Wage	\$15.00
6 Months	\$15.50
1 Year	\$16.00
2 Years	\$17.00
3 Years	\$18.00
4 Years	\$19.00
5 Years	\$20.00
6 Years	\$21.00 (Max)



2025 PAY PLAN

Updated: 12/6/2024

EMPLOYEES OTHER THAN REGULAR, FULL-TIME STATUS

Part-time Regular (Regular employees working less than 40 hours per week.)

Part-time regular employees will be eligible for a \$1.25 base pay increase for 2025. Part-time regular employees will also be eligible for a \$.25 increase after a 6-month probationary period with a successful evaluation. Employee hourly pay will not be allowed to exceed the range maximums unless approved by the City Administrator.

POSITION	2025
Community Center CSR/Building Supervisor	\$15.25-\$20.00
Community Center Building Maintenance	\$15.75-\$20.50
Personal Fitness Trainer	\$20.00-\$30.00

Fitness Instructors	Flat Rate Per Class (2025)
Fitness Instructor* Silver Sneakers <i>*Independent contractor – flat fee per class</i>	\$17.50/Class
Group Fitness Instructor	<u>Starting Pay – Max Pay</u> \$16.00 - \$18.00
Group Fitness Contracted Instructor – % Split of Program Fee	80% Contractor 20% Parks & Rec Dept

Temporary/Seasonal (Temporary employees may be either full-time or part-time but work only during peak demand periods of the year or for a specific project and should not exceed 6 continuous months of employment.) Employee hourly pay will not be allowed to exceed the range maximums unless approved by the City Administrator.

POSITION	HOURLY RATE RANGE OR STEPS	
Parks & Recreation Maintenance Workers	2025	\$16.50 - \$20.00
	<i>Yearly Increase: \$.50/hr. over starting wage</i>	
Parks Ranger	2025	\$16.50 - \$20.00
Parks & Recreation Landscape Technician	2025	\$16.50 - \$20.00

Redwood Falls Parks & Recreation Department-Rec Program

Temporary/Seasonal (Temporary employees may be either full-time or part-time but work only during peak demand periods of the year or for a specific project and should not exceed 6 continuous months of employment.) Employee hourly pay will not be allowed to exceed the range maximums unless approved by the City Administrator.

Position Level	Pay Range/Hour 2025
Program Leader <i>Figure Skating Instructors</i> Camp Instructors- <i>Independent Contractors</i> <i>(H.S. Sports Coaches)</i>	\$15.00 - \$20.00 \$25.00/private lessons \$25.00/group lessons <i>The Rec Dept. retains \$4.50/participants. Camp Instructor gets remaining amount of participation fees.</i>
Program Assistant/Staff Person (Rink Attendants) <i>Soccer Coach-Independent Contractor</i>	\$13.50 - \$18.00 \$300/season coached
Soccer Referee	\$30/hour

Staff will receive a **\$.50** per hour increase as returning staff (from 2024) plus a base pay increase of \$1.00.

League Officials – Independent Contractors	Pay Range/Game or Match 2025
Softball Umpire	\$30.00/Game
Basketball Official	\$32.00-\$37.00/Game
Volleyball Official	\$32.00/Match

Redwood Falls Aquatic Center

Seasonal (Seasonal employees may be either full-time or part-time but work only during peak demand periods of the year or for a specific project and should not exceed 6 continuous months of employment.) Employee hourly pay will not be allowed to exceed the range maximums unless approved by the City Administrator.

		Starting Pay	Max Pay
Manager	2025	\$17.00/hr (or adjusted according to qualifications and experience)	\$20.50/hr
Assistant Manager (s)	2025	\$16.00/hr (or adjusted according to qualifications and experience)	\$20.50/hr
Water Safety Instructor	2025	\$15.00/hr (or adjusted according to qualifications and experience).	\$19.00/hr
Lifeguard/Maintenance/Lap Swim/WSI Aid	2025	\$14.25/hr (or adjusted according to qualifications and experience)	\$17.50/hr
Customer Service	2025	\$13.50/hr (or adjusted according to qualifications and experience)	\$17.50/hr

	Starting Pay
Lifeguard Instructor CPR/First Aid Instructor	Contracted Employee: \$20-\$30/registrant Dependent on class taught.

<p>Note: If a staff member is hired as both a Lifeguard and Water Safety Instructor, he/she will receive the same pay rate for both jobs (he/she will be paid the higher wage of the two).</p>
<p>Staff will receive a \$.50 per hour increase as returning staff (from 2024) plus a base pay increase of \$1.00. Management wages will be adjusted based on experience and needs. Returning staff that were not in management roles in 2024 should start at the designated starting pay set for 2025. Employee hourly pay will not be allowed to exceed the range maximums unless approved by the City Administrator.</p>

Meeting Date: December 17, 2024

AGENDA RECOMMENDATION

Agenda Item: Resolution No. 85

Recommendation/Action Requested: Read the proposed Resolution or make a motion to waive the reading of the Resolution. Discuss the proposed Resolution. If no concerns, adopt proposed Resolution by motion in accordance with Chapter 4 of the City Charter.

Summary/Overview: The Council is to approve the draft (Redwood Falls Public Library Addition & Renovation Project) grant agreement of \$1,000,000.00 as it relates to the Minnesota Department of Education (MDE) notice of award dated July 22, 2024. The grant agreement is in draft form, for the MDE to add and approve their portions highlighted in yellow to the agreement. The resolution certifies funds on hand as of December 10, 2024, and the sources and uses of funds. Approval also authorizes the Mayor and City Administrator to execute the final agreement once routed back from MDE.

Staff is recommending the approval of Resolution No. 85 that will enable the submission of the draft grant agreement for MDE review and fulfillment. Please note this is a different procedure from other State grant agreement approvals where in this case the agreement template is drafted by the recipient and then forwarded to the State for final additions, revisions, review and execution.

Attachments:

- Resolution No. 85 of 2024
- MDE letter of award, July 22, 2024
- December 10, 2024 Engan Associates cost estimate
- Draft Grant Agreement for submission

RESOLUTION NO. 85 OF 2024

**RESOLUTION APPROVING GRANT AGREEMENT
WITH THE MINNESOTA DEPARTMENT OF EDUCATION
FOR THE REDWOOD FALLS PUBLIC LIBRARY
ADDITION & RENOVATION PROJECT**

WHEREAS, The City of Redwood Falls is approving the working grant agreement with the Minnesota Department of Education, hereinafter (MDE), for the Redwood Falls Public Library Addition & Renovation Project, hereinafter (the “Project”); and

WHEREAS, the City of Redwood Falls owns by fee title all the parcels that pertain to the current library facility and expansion area needed for the completion of the Project; and

WHEREAS, the construction cost of the Project is anticipated to be \$3,909,000.00 as presented by the Project’s Architectural and Engineering firm Engan Associates’ cost estimate prior to soliciting and receiving confirmed bid amounts; and

WHEREAS, the City of Redwood Falls is accepting this grant agreement per the Letter of Award from MDE which was received July 22, 2024, with a library construction grant offer of \$1,000,000.00; and

WHEREAS, the City of Redwood Falls demonstrates that funds are on hand for the remaining \$2,909,000.00 in Project costs through the generous donations of supporting foundations and private funding pledges to the Project, that have been committed by the “Redwood Area Library Foundation;” and

FURTHERMORE, that the City of Redwood Falls has the legal authority to apply for and receive the offered MDE grant; and

FURTHERMORE, that upon approval of this working grant agreement with MDE, the City of Redwood Falls may enter into a final agreement with the MDE for the above referenced Project, and that the City of Redwood Falls certifies that it will comply with all applicable laws and regulations as stated in all contract agreements described in the Capital Grants Manual.

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

1. The Mayor or City Administrator or their successors in office, are hereby authorized to execute such working grant agreements, final agreements, grant awards and subsequent contracts and amendments, and negotiate changes in the scope of thereto, as are necessary to implement the above project on behalf of the City of Redwood Falls.
2. The City Council hereby approves the attached working grant agreement with MDE for the Redwood Falls Library Addition and Renovation Project.

BE IT FURTHER RESOLVED the City Council of the City of Redwood Falls, Minnesota, approves the request contingent upon compliance with all the requirements of the Minnesota State Statutes.

PASSED AND ADOPTED by the City Council of the City of Redwood Falls, Minnesota on this 17th day of December 2024.

ATTEST:

Keith Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this
17th day of December 2024.

Notary Public

STATE OF MINNESOTA
REDWOOD COUNTY

I hereby certify that the foregoing Resolution is a true and correct copy of the Resolution presented to and adopted by the City of Redwood Falls at a duly authorized meeting thereof held on the 17th day of December 2024, as shown by the minutes of said meeting in my possession.

Witness my hand as the City Clerk and the corporate seal of the City of Redwood Falls, this 17th day of December 2024.

CAITLIN KODET
City Clerk

Seal



July 22, 2024

VIA ELECTRONIC DELIVERY ONLY

Keith Muetzel, City Administrator
Redwood Falls Public Library
509 South Lincoln St
Redwood Falls, MN 56283

RE: FY25 Library Construction Grant: Improvement Application

Dear Keith Muetzel,

Congratulations! We have selected your application submitted in response to the Library Construction Improvement Grant for funding contingent upon clarifications and negotiations that will be necessary before executing the award. The grant offer is \$1,000,000.00.

Library Construction Grants are end grants, meaning that the funds are paid in one lump sum after the project is complete and you submit a final report documenting total project costs, the expenditures and sources of matching funding, and other program requirements described in the application and end grant agreement.

Staff will be contacting you directly to discuss next steps in completing the end grant agreement. If you have any questions related to the process, please contact Emma De Vera, State Library Programs Specialist, at emma.devera@state.mn.us or (651) 582-8702.

Deb Rose, Grants Specialist, will be assisting with preparation of the end grant documentation. Her contact information is debra.rose@state.mn.us or (651) 582-8853. The grants specialist will also be conducting a Pre-Award Risk Assessment, which will require a review of financial documentation and prior grant performance before the execution of the grant documentation. The grants specialist will contact you if she needs any information to conduct that assessment.

We look forward to working with you in the future.

Sincerely,

Bette Benson
Grant Coordinator

cc: Tom Quackenbush, Mayor
Connie Lechner, Director, Redwood Falls Public Library
Kari Klages, Finance Director
Emma De Vera, State Library Programs Specialist
Tami Lee, Director of State Library Services and Expanded Learning Opportunities
Deb Rose, Grant Specialist



COST SUMMARY

PREPARED ON DECEMBER 3, 2024 FOR:

Redwood Falls Public Library
Connie Lechner, Director
509 S. Lincoln St.
Redwood Falls, MN 56283

RE: Redwood Falls Public Library - Redwood Falls, MN (855.01)

Engan Associates presents the following estimate of probable construction cost for the above-referenced project.

I. Renovation	\$ 389,000.00
II. Addition	\$ 2,194,000.00
III. Multi Purpose Room Addition	\$ 329,000.00
IV. Site Work	
Earthwork, Utilities, & Walks	\$ 130,000.00
North Side Drive	\$ 60,000.00
Parking Lot	\$ 190,000.00
Subtotal	\$ 380,000.00
Subtotal of I-IV Construction Costs	\$ 3,292,000.00
V. Non Construction & Other Costs	
Architectural & Engineering Costs	\$ 272,000.00
Survey, Geotechnical, Construction Testing, Commissioning, Misc Expenses	\$ 100,000.00
FF&E	\$ 180,000.00
Tellicom Voice & Data	\$ 34,000.00
Security	\$ 20,000.00
B3 Energy Standard Owner Operations	\$ 11,000.00
Subtotal	\$ 617,000.00
TOTAL PROJECT COSTS	\$ 3,909,000.00

COST ESTIMATE NOTES

A. This estimate of probable construction cost does not include the following:

1. Costs related to financing
2. Renovation and refinishing of areas not listed in the scope of work.
3. Costs related to hazardous materials (i.e., Fuel, Asbestos, Lead Paint, Etc.)
4. Specific cost to move the existing barnyard/playground and picnic shelter
5. 10% Contingency

B. The following are included at an allowance under roman numeral V:

1. Public address systems or wiring in addition to the wire way
2. Phone systems of wiring in addition to the wire way
3. Computer system or wiring in addition to wire way

C. Comments:

1. We reserve the right to revise this cost estimate at each phase; schematic design, design development and when construction documents are complete
2. If completed in phases, then an updated cost increase based upon inflation data should be included

IN CLOSING

For any questions regarding this Project Cost Summary for Redwood Falls Public Library please contact Dawn Engstrom at 320-214-7146 or by email at dawn.engstrom@engan.com. Thank you for your time and attention to this proposal, we look forward to working with you to achieve a successful outcome for your project.

General Obligation Bond Proceeds

Grant Agreement - End Grant

for the

Redwood Falls Public Library

Addition & Renovation

Project

under the

Library Construction Grant Program

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General Obligation Bond Proceeds
Grant Agreement – End Grant
for the
Redwood Falls Public Library
Addition & Renovation
Project
under the
Library Construction Grant Program

THIS AGREEMENT shall be effective as of «STATE LIBRARY SERVICES», 2022, and is between the City of Redwood Falls, a Home Rule Charter City (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 \$1,000,000.00 (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 Redwood Falls Public Library Addition and Renovation 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 be 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 **Redwood Falls Public 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 **\$1,680,600.00 per County determined valuation**; 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 **Redwood**, 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 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.*

“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 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.

“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:

(Check the appropriate box for the Real Property and, if applicable, for the Facility.)

Ownership Interest in the Real Property.

- 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.
- 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.

(Check all appropriate boxes.)

- 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 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.*

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 be 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 be 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 Redwood Falls
P.O. Box 526
333 South Washington Street
Redwood Falls, MN 56283
Attention: Keith Muetzel, City Administrator

To the State Entity at:

MN Department of Education

1500 Hwy 36 W
Roseville, MN 55113
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 **Redwood Falls Public Library Addition and Renovation** Project under the Public Library Construction Grant Program on the day and date indicated immediately below their respective signatures.

PUBLIC ENTITY:

City of Redwood Falls,
a **Home Rule Charter City**

By: _____

Tom Quackenbush

Its: **Mayor**

Dated: **«DATE»**

And: _____

Keith Muetzel

Its: **City Administrator**

Dated: **«DATE»**

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 **Redwood**, State of Minnesota that is legally described in **Exhibit A** attached and all facilities situated thereon (collectively, the “Restricted Property”):

(Check the appropriate box.)

- 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 **«Redwood Falls Public Library Addition and Renovation Project»** and the Minnesota Department of Education, dated **«STATE LIBRARY SERVICES»**, 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**

Parcels: 88-422-0060, 88-422-0030, 88-422-0020

88-422-0060:

All the tract of parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: Commencing at the Southwest corner of Block 1 of D. L. Hitchcock's First Addition, aka Hitchcock's Addition, aka Hitchcock's First Addition, to the village (now City) of Redwood Falls, according to the recorded plat thereof, running thence north 260 feet to the Northwest Corner of said Block 1, running thence along the North line of said Block 1 a distance of 120 feet, thence at right angles South parallel to the west line thereof a distance of 130 feet, thence at right angles East parallel to the South line of Block 1 a distance of 60 feet, thence at right angles South at distance of 130 feet to the South line of said Block 1, thence West along the South line of Block 1 a distance of 180 feet to the point of beginning; said parcel also being described as the West 1/3rd of the West 1/2 of the of the center 1/3rd of the S 1/2 of Hitchcock's First Addition to the Village (now City) of Redwood Falls, according to the recorded plat thereof.

AND;

East half (E1/2) of the Center Third (C 1/3) of the South half (S1/2) of Block (1) in Hitchcock's First Addition to the City of Redwood Falls, otherwise described as follows: Beginning 180 feet East of the Southeast corner of Block 1 in Hitchcock's First Addition, thence running North 130 feet, thence East 60 feet, thence South 130 feet, thence West 60 feet to the place of beginning.

88-422-0030:

The West 60 feet of the East 150 feet of the North 130 feet of Block 1 of Hitchcock's First Addition in the City of Redwood Falls, Redwood County, Minnesota.

88-422-0020

Commencing at a point One Hundred Twenty (120) feet East of the Northwest corner of Block One (1) of Hitchcock's First Addition to Redwood Falls, thence East Ninety (90) feet, thence North One Hundred Thirty (130) feet to the place of beginning.

**Attachment II to Grant Agreement
LEGAL DESCRIPTION OF REAL PROPERTY**

Parcels: 88-422-0060, 88-422-0030, 88-422-0020

88-422-0060:

All the tract of parcel of land, lying and being in the County of Redwood and State of Minnesota, described as follows, to wit: Commencing at the Southwest corner of Block 1 of D. L. Hitchcock's First Addition, aka Hitchcock's Addition, aka Hitchcock's First Addition, to the village (now City) of Redwood Falls, according to the recorded plat thereof, running thence north 260 feet to the Northwest Corner of said Block 1, running thence along the North line of said Block 1 a distance of 120 feet, thence at right angles South parallel to the west line thereof a distance of 130 feet, thence at right angles East parallel to the South line of Block 1 a distance of 60 feet, thence at right angles South at distance of 130 feet to the South line of said Block 1, thence West along the South line of Block 1 a distance of 180 feet to the point of beginning; said parcel also being described as the West 1/3rd of the West 1/2 of the of the center 1/3rd of the S 1/2 of Hitchcock's First Addition to the Village (now City) of Redwood Falls, according to the recorded plat thereof.

AND;

East half (E1/2) of the Center Third (C 1/3) of the South half (S1/2) of Block (1) in Hitchcock's First Addition to the City of Redwood Falls, otherwise described as follows: Beginning 180 feet East of the Southeast corner of Block 1 in Hitchcock's First Addition, thence running North 130 feet, thence East 60 feet, thence South 130 feet, thence West 60 feet to the place of beginning.

88-422-0030:

The West 60 feet of the East 150 feet of the North 130 feet of Block 1 of Hitchcock's First Addition in the City of Redwood Falls, Redwood County, Minnesota.

88-422-0020

Commencing at a point One Hundred Twenty (120) feet East of the Northwest corner of Block One (1) of Hitchcock's First Addition to Redwood Falls, thence East Ninety (90) feet, thence North One Hundred Thirty (130) feet to the place of beginning.

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

Source of Funds		Use of Funds	
<u>Identify Source of Funds</u>	<u>Amount</u>	<u>Identify Items</u>	<u>Amount</u>
State G.O. Funds		Ownership Acquisition	
Program Grant	\$1,000,000	and Other Items Paid for	
		with Program Grant Funds	
Other State Funds		Purchase of Ownership	\$ NA
	\$	Interest	
	\$	Other Items of a Capital	
	\$	Nature	
Subtotal	\$1,000,000	Construction of Addition	\$1,000,000
			\$
Matching Funds		Subtotal	\$1,000,000
Cash On Hand Library	\$2,909,000		
Foundation Donations		Items Paid for with	
	\$	Non-Program Grant Funds	
Subtotal	\$2,909,000	New Construction-continued	\$1,903,000
		Construction Renovation	\$389,000
Other Public Entity Funds		Project engineering, design and	\$617,000
	\$	testing.	
	\$	Subtotal	\$2,909,900
Subtotal	\$		
Loans			
	\$		
	\$		
Subtotal	\$		
Other Funds			
	\$		
	\$		
Subtotal	\$		-
Prepaid Project Expenses			
	\$		
	\$		
Subtotal	\$		
TOTAL FUNDS	\$3,909,000	TOTAL PROJECT COSTS	\$3,909,000

**Attachment IV to Grant Agreement
GRANT APPLICATION**

«STATE LIBRARY SERVICES WILL ADD THIS»



Jim Doering
Public Works Project Coordinator
Phone: 507-616-7400
Fax: 507-637-2417
jdoering@ci.redwood-falls.mn.us

Meeting Date: December 17, 2024

AGENDA RECOMMENDATION

Agenda Item: Resolution No. 86 of 2024

Recommendation/Action Requested: Read the proposed Resolution or make a motion to waive the reading of the Resolution. Discuss the proposed Resolution. If no concerns, adopt proposed Resolution by motion in accordance with Chapter 4 of the City Charter.

Summary/Overview: Resolution No. 86 executes the Master Service Agreement for 2025. The Master Service Agreement lists responsibilities for both parties and outlines basic services to be provided by Bolton & Menk Inc. as assigned by the City of Redwood Falls. This will be done on a project-by-project basis that is to be outlined by individual “Task Orders” presented to Council for subsequent approval throughout the year.

The term for this Master Agreement will have a start of January 1, 2025 and is slated to terminate December 31, 2025 but roll over annually if both parties agree. This does not supersede the Council from formerly appointing Bolton & Menk Inc. Owen Todd P.E. as our City Engineer at their first business meeting of the new year.

This Agreement has been reviewed by Bolton & Menk Inc. with no changes suggested and Staff also recommends its approval.

Attachments: Resolution No. 86 of 2024
Master Agreement for Professional Services 2025

RESOLUTION NO. 86 OF 2024

**AUTHORIZATION TO EXECUTE
MASTER AGREEMENT FOR PROFESSIONAL SERVICES 2025
CITY OF REDWOOD FALLS AND BOLTON & MENK, INC.**

WHEREAS, the City of Redwood Falls is authorized to enter into an annual Master Agreement with Bolton & Menk Inc, pursuant to Minnesota Statutes Section §412.221, subd. 2 for the benefit of its citizens, and;

WHEREAS, Bolton & Menk Inc. of Sleepy Eye, MN is the designated Redwood Falls Municipal Civil Engineer as set by Council, and;

WHEREAS, Bolton & Menk Inc. agrees to perform the various Basic Services as assigned by the City of Redwood Falls under this agreement and further described in a subsequent Task Orders or Addendums for each assignment and in connection with each proposed project (referred to as “Project” or “project”) associated with that Task Order or Addendum, and;

FURTHERMORE, the Mayor and/or City Administrator are authorized to execute this agreement and negotiate in good faith, future changes or amendments as are necessary, and;

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

1. The agreement described above is approved and executed in the form submitted to the City Council and made a part of this resolution by reference.

BE IT FURTHER RESOLVED that the City Council of the City of Redwood Falls, Minnesota, approves the agreement contingent upon compliance with all the requirements of the Minnesota State Statutes.

PASSED AND ADOPTED by the City Council of the City of Redwood Falls, Minnesota this 17th day of December 2024.

ATTEST:

Keith Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this
____ day of _____, 2024.

Notary Public

MASTER AGREEMENT FOR PROFESSIONAL SERVICES 2025

CITY OF REDWOOD FALLS AND BOLTON & MENK, INC.

This Agreement, made this _____ day of _____, 202__, is by and between the CITY OF REDWOOD FALLS, 333 S. Washington St. P.O. Box 526 Redwood Falls, MN 56283, (“CLIENT”), and BOLTON & MENK, INC., 1243 Cedar Street NE, Sleepy Eye, MN 56085 (“CONSULTANT”).

RECITALS

WHEREAS, the CLIENT requires professional services in conjunction with various assignments or tasks; and

WHEREAS, the CONSULTANT agrees to furnish the various professional services required and assigned as needed by the CLIENT using Task Orders or Addenda to this Agreement;

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

SECTION I - CONSULTANT'S SERVICES

- A. The CONSULTANT agrees to perform the various Basic Services as assigned by the CLIENT and specifically described in the Task Order or Addendum for each assignment and in connection with each proposed project (referred to as “Project” or “project”) associated with that Task Order or Addendum. A sample Task Order form is attached at the end of this Agreement.
- B. Upon mutual agreement of the parties hereto, Additional Services may be authorized as described in the respective Task Order.

SECTION II - THE CLIENT'S RESPONSIBILITIES

- A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section III of this Agreement.
- B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include, but is not limited to: boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, and zoning limitations. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.
- C. The CLIENT will guarantee access to and make all provisions for entry upon public portions of the project and reasonable efforts to provide access to private portions and pertinent adjoining properties.
- D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.

- E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.
- F. The CONSULTANT'S services do not include legal, insurance counseling, accounting, independent cost estimating, financial advisory or "municipal advisor" (as described in Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act 2010 and the municipal advisor registration rules issued by the SEC) professional services and the CLIENT shall provide such services as may be required for completion of the project described in this Agreement.
- G. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the Project. CONSULTANT will assist CLIENT with permit preparation and documentation to the extent described in the appropriate Task Order.
- H. The CLIENT may hire, at its discretion, when requested by the CONSULTANT, an independent test company to perform laboratory and material testing services, and soil investigation that can be justified for the proper design and construction of the project. The CONSULTANT shall assist the CLIENT in selecting a testing company. Payment for testing services shall be made directly to the testing company by the CLIENT and is not part of this Agreement. If CLIENT elects not to hire an independent test company, CLIENT shall provide CONSULTANT with guidance and direction on completing those aspects of design and construction that require additional testing data.

(Remainder of this page intentionally left blank)

SECTION III - COMPENSATION FOR SERVICES

A. FEES.

1. The CLIENT will compensate the CONSULTANT in accordance with the following Schedule of Fees for the time spent in performance of Agreement services or as otherwise explicitly described in the Task Order or Addendum for the specific assignment.

Schedule of Fees

Employee Classification	Hourly Billing Rates
Senior Principal	\$150-280/Hour
Principal Engineer/Surveyor/Planner/GIS/Landscape Architect	\$140-225
Senior Engineer/Surveyor/Planner/GIS/Landscape Architect	\$110-210
Project Manager (Inc. Survey, GIS, Landscape Architect)	\$100-195
Project Engineer/Surveyor/Planner/Landscape Architect	\$85-190
Design Engineer/Landscape Designer/Graduate Engineer/Surveyor	\$80-190
Specialist (Nat. Resources; GIS; Traffic; Graphics; Other)	\$60-175
Senior Technician (Inc. Construction, GIS, Survey1)	\$85-180
Technician (Inc. Construction, GIS, Survey1)	\$65-150
Administrative/Corporate Specialists	\$45-125
Structural/Electrical/Mechanical/Architect	\$120-150
GPS/Robotic Survey Equipment	NO CHARGE
CAD/Computer Usage	NO CHARGE
Routine Office Supplies	NO CHARGE
Routine Photo Copying/Reproduction	NO CHARGE
Field Supplies/Survey Stakes & Equipment	NO CHARGE
Mileage	NO CHARGE

¹ No separate charges will be made for GPS or robotic total stations on Bolton & Menk, Inc. survey assignments; the cost of this equipment is included in the rates for Survey Technicians.

2. The preceding Schedule of Fees shall apply for services provided through December 31, 2025. Hourly rates may be adjusted by CONSULTANT, in consultation with CLIENT, on an annual basis thereafter to reflect reasonable changes in its operating costs. Adjusted rates will become effective on January 1st of each subsequent year, upon written acceptance by CLIENT.
3. Rates and charges do not include sales tax. If such taxes are imposed and become applicable after the date of this Agreement CLIENT agrees to pay any applicable sales taxes.
4. The rates in the Schedule of Fees include labor, general business and other normal and customary expenses associated with operating a professional business. Unless otherwise agreed in writing, the above rates include vehicle and personal expenses, mileage, telephone, survey stakes and routine expendable supplies; and no separate charges will be made for these activities and materials.

5. Additional services as outlined in Section I.B will vary depending upon project conditions and will be billed on an hourly basis at the rate described in Section III.A.1.
6. Expenses required to complete the agreed scope of services or identified in this paragraph will be invoiced separately, and include, but are not limited to: large quantities of prints, extra report copies, out-sourced graphics and photographic reproductions, document recording fees, special field and traffic control equipment rental, outside professional and technical assistance, geotechnical services, and other items of this general nature required by the CONSULTANT to fulfill the terms of this Agreement. CONSULTANT shall be reimbursed at cost plus an overhead fee (not-to-exceed 5%) for these Direct Expenses incurred in the performance of the work, except as otherwise explicitly described in the Task Order or Addendum for the specific assignment.

B. PAYMENTS AND RECORDS

1. The payment to the CONSULTANT will be made by the CLIENT upon billing at intervals not more often than monthly at the herein rates and terms.
2. If CLIENT fails to make any payment due to the CONSULTANT for undisputed services and expenses within 45 days after date of the CONSULTANT'S invoice, a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, will be charged on any unpaid balance.
3. In addition to the service charges described in preceding paragraph, if the CLIENT fails to make payment for undisputed services and expenses within 60 days after the date of the invoice, the CONSULTANT may, upon giving seven (7) days' written notice to CLIENT, suspend services and withhold project deliverables due under this Agreement and/or any Task Order until CONSULTANT has been paid in full for all past due amounts for undisputed services, expenses and charges, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to the CLIENT.
4. Documents Retention. The CONSULTANT will maintain records that reflect all revenues, costs incurred, and services provided in the performance of the Agreement. The CONSULTANT will also agree that the CLIENT, State, or their duly authorized representatives may, at any time during normal business hours and as often as reasonably necessary, have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., and accounting procedures and practices of the CONSULTANT which are relevant to the contract for a period of six years.

SECTION IV - GENERAL

A. STANDARD OF CARE

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

B. CHANGE IN PROJECT SCOPE

In the event the CLIENT changes or is required to change the scope or duration of the project from that described in any Task Order or Addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the

applicable hourly rates. To the fullest extent practical, the CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such Additional Services. The CONSULTANT shall furnish an estimate of additional cost, prior to authorization of the changed scope of work and the change will be memorialized in writing and executed, either as an Addendum to this Agreement or the affected Task Order; or issuance of a new Task Order for the Additional Services.

C. LIMITATION OF LIABILITY

1. General Liability of CONSULTANT. For liability other than professional acts, errors, or omissions, and to the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless CLIENT from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from claims or actions relating to the project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, but only to the extent caused by the acts and omissions in the non-professional services of CONSULTANT or CONSULTANT'S employees, agents, or subconsultants.
2. Professional Liability of CONSULTANT. With respect to professional acts, errors and omissions and to the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from third-party claims or actions relating to the project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, but only to the extent caused by a negligent act, error or omission of CONSULTANT or CONSULTANT'S employees, agents, or subconsultants. This indemnification shall include reimbursement of CLIENT'S reasonable attorneys' fees and expenses of litigation, but only to the extent that defense is insurable under CONSULTANT'S liability insurance policies.
3. General Liability of CLIENT. To the fullest extent permitted by law and subject to the maximum limits of liability set forth in Minnesota Statutes Section 466.04, CLIENT shall indemnify, defend and hold harmless CONSULTANT from losses, damages, and judgments (including reasonable attorneys' fees and expenses of litigation) arising from third-party claims or actions relating to the project, provided that any such claim, action, loss, damages, or judgment is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, but only to the extent caused by the acts or omission of CLIENT or CLIENT'S employees, agents, or other consultants.
4. To the fullest extent permitted by law, CLIENT and CONSULTANT waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement, from any cause or causes. CLIENT waives all claims against individuals involved in the services provided under this Agreement and agrees to limit all claims to the CONSULTANT's corporate entity.
5. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services provided hereunder.

D. INSURANCE

1. The CONSULTANT agrees to maintain, at CONSULTANT'S expense a commercial general liability (CGL) and excess or umbrella general liability insurance policy or policies insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities. The general liability coverage shall provide limits of not less than \$2,000,000 per occurrence and not less than \$2,000,000 general aggregate. Coverage shall include Premises and Operations Bodily Injury and Property Damage; Personal and Advertising Injury; Blanket Contractual Liability; Products and Completed Operations Liability.
2. The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, a single limit or combined limit automobile liability insurance and excess or umbrella liability policy or policies insuring owned, non-owned and hired vehicles used by CONSULTANT under this Agreement. The automobile liability coverages shall provide limits of not less than \$1,000,000 per accident for property damage, \$2,000,000 for bodily injuries, death and damages to any one person and \$2,000,000 for total bodily injury, death and damage claims arising from one accident.
3. CLIENT shall be named Additional Insured for the CGL and Auto liability policies.
4. The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage together with Coverage B, Employer's Liability limits of not less than \$500,000 for Bodily Injury by Disease per employee, \$500,000.00 for Bodily Injury by Disease aggregate and \$500,000 for Bodily Injury by Accident.
5. The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from a negligent act, error or omission in the performance of professional services required by this Agreement during the period of CONSULTANT'S services and for three years following date of final completion of its services. The professional liability insurance coverage shall provide limits of not less than \$2,000,000 per claim and an annual aggregate of not less than \$2,000,000 on a claims-made basis.
6. CLIENT shall maintain statutory Workers Compensation insurance coverage on all of CLIENT'S employees and other liability insurance coverage for injury and property damage to third parties due to the CLIENT'S negligence.
7. Prior to commencement of this Agreement, CONSULTANT will provide the CLIENT with certificates of insurance, showing evidence of required coverages. All policies of insurance shall contain a provision or endorsement that the coverage afforded will not be canceled or reduced in limits by endorsement for any reason except non-payment of premium, until at least 30 days prior written notice has been given to the Certificate Holder, and at least 10 days prior written notice in the case of non-payment of premium

E. OPINIONS OR ESTIMATES OF CONSTRUCTION COST

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

CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.

F. CONSTRUCTION SERVICES

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

G. USE OF ELECTRONIC/DIGITAL DATA

1. Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable for this AGREEMENT or except as otherwise explicitly provided in this AGREEMENT, all electronic/digital data developed by the CONSULTANT as part of the project is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the CLIENT is advised and acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees).
2. Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this Agreement, unless such third-party use and adaptation or distribution is explicitly authorized by this Agreement.
3. CONSULTANT acknowledges the existence of a previously executed Data Exchange License Agreement ("LICENSE") Between CLIENT and third-party Montana-Dakota Utilities Co., (Montana-Dakota) dated November 9, 2022. CONSULTANT is of the understanding that CLIENT'S obligations under the LICENSE include allowing Montana-Dakota to access CLIENTS updated GIS database, including land base data, aerial photos, and/or facility data and to use CLIENT'S GIS information to update and augment Montana-Dakota's proprietary information. CONSULTANT hereby authorizes said LICENSE and the third-party use of, or any adaptations or distributions of electronic/digital data provided under this Agreement needed by CLIENT to fulfill its obligations under the LICENSE with Montana-Dakota.

H. REUSE OF DOCUMENTS

1. Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this Agreement are instruments of service in respect to the project and CONSULTANT shall retain an ownership

interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall 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. Such limited license to Owner shall not create any rights in third parties.

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

I. CONFIDENTIALITY

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

J. PERIOD OF AGREEMENT

This Agreement will remain in effect until December 31, 2025; or until the specified completion date for any subsequently issued Task Order or Addendum that falls after the end of that period; or such other expressly identified completion date.

By mutual agreement of the parties hereto, the term of this Agreement shall be renewable in one (1) year increments with both parties reserving the right to terminate the Agreement pursuant to the terms and requirements found in Section IV.K of this Agreement.

K. TERMINATION

This Agreement, or any individual Task Order, may be terminated:

1. For cause, by either party upon 7 days written notice in the event of substantial failure by either party to perform in accordance with the terms of this Agreement through no fault of the terminating party. For termination by CONSULTANT, cause includes, but is not limited to: failure by CLIENT to pay undisputed amounts owed to CONSULTANT within 120 days of invoice and delay or suspension of CONSULTANT'S services for more than 120 days for reasons beyond CONSULTANT'S cause or control; or,
2. For convenience by CLIENT upon 7 days written notice to CONSULTANT.
3. The notice of termination shall identify the individual Task Order being terminated, or if the terminating party intends to terminate the entire Agreement the notice shall so state. This Termination process shall apply only to those elements expressly identified in the notice.

4. Notwithstanding the foregoing, this Agreement or the individual Task Order identified in the required notice will not terminate under Section IV.K if the party receiving such notice immediately commences correction of any substantial failure and cures the same within 10 days of receipt of the notice.
5. In the event of termination by CLIENT for convenience or by CONSULTANT for cause, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Agreement. CONSULTANT shall deliver and CLIENT shall have, at its sole risk, right of use of any completed or partially completed deliverables, subject to provisions of Section IV.H.
6. In event of termination by CLIENT for cause and in addition to any other remedies available to CLIENT, CONSULTANT shall deliver to CLIENT and CLIENT shall have right of use of any completed or partially completed deliverables, in accordance with the provisions of Section IV.H. CLIENT shall compensate CONSULTANT for all undisputed amounts owed CONSULTANT as of date of termination.

L. INDEPENDENT CONTRACTOR

It is expressly understood that the CONSULTANT is an “independent contractor” and not an employee of the CLIENT. The CONSULTANT shall have control over the manner in which the Services are performed under this Agreement. The CONSULTANT shall supply, at its own expense, all materials, supplies, equipment and tools required to accomplish the Services contemplated by this Agreement. The CONSULTANT shall not be entitled to any benefits from CLIENT, including, without limitation, insurance benefits, sick and vacation leave, Earned Sick and Safe Time, workers’ compensation benefits, unemployment compensation, disability, severance pay, or retirement benefits. Nothing in this Agreement shall be deemed to constitute a partnership, joint venture or agency relationship between the Parties.

M. CONTINGENT FEE

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

N. NON-DISCRIMINATION

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

O. ASSIGNMENT

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

P. SURVIVAL

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

Q. SEVERABILITY

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

R. CONTROLLING LAW

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

S. DISPUTE RESOLUTION

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

T. MINNESOTA GOVERNMENT DATA PRACTICES ACT

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

U. ETHICAL STANDARDS

No member, officer, employee or agent of the CLIENT or of a local public body thereof during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Agreement or the benefits therefrom.

SECTION V - SIGNATURES

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

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

CLIENT: City of Redwood Falls

CONSULTANT: Bolton & Menk, Inc.

ATTACHMENTS: Sample Task Order Form

**CITY OF REDWOOD FALLS AND BOLTON & MENK, INC.
TASK ORDER TO AGREEMENT FOR PROFESSIONAL SERVICES**

TASK ORDER NO: _____

CLIENT: City of Redwood Falls

CONSULTANT: Bolton & Menk, Inc.

DATE OF THIS TASK ORDER: _____, 2025

DATE OF MASTER AGREEMENT FOR PROFESSIONAL SERVICES: _____

Whereas, CLIENT and CONSULTANT entered into a Master Agreement for Professional Services (“Master Agreement”) as dated above; and CONSULTANT agrees to perform and complete the following Services for CLIENT in accordance with this Task Order and the terms and conditions of the Master Agreement. CLIENT and CONSULTANT agree as follows:

1.0 Scope of Services:

CONSULTANT shall perform the Services listed below or in the attached Scope. All terms and conditions of the Master Agreement are incorporated by reference in this Task Order, except as explicitly modified in writing herein.

2.0 Fees:

CLIENT shall pay CONSULTANT in accordance with Section III of the Master Agreement and as follows or as described in the attached Scope. Total cost of services provided by CONSULTANT for this Task Order shall not exceed \$XX,XXX.XX without prior approval of CLIENT.

3.0 Schedule:

Schedule for performance of Services will be as follows or as set forth in attached Scope, such that all services will be completed by _____, 2025.

4.0 Deliverables

Deliverables will be as follows or as set forth in the attached Scope.

5.0 Term

In the event that the Schedule for this Task Order extends beyond the term of the Master Agreement, either intentionally or unintentionally by Task Order Scope or by Task Order extension, then this Task Order shall operate to extend the Master Agreement through the completion of CONSULTANT’S obligations under this Task Order or until a new Master Agreement is executed incorporating this Task Order.

6.0 Other Matters

7.0 Project Managers

Project managers and contact information for the CLIENT and CONSULTANT for this Task Order, if different than the Master Agreement, are as follows:

CITY OF REDWOOD FALLS
Attn: Jim Doering
333 S. Washington St.
P.O. Box 526
Redwood Falls, MN 56283
Office Phone: 507-616-7400
Email: jdoering@ci.redwood-falls.mn.us

BOLTON & MENK, INC.
Attn: Owen J. Todd, P.E.
1243 Cedar Street NE
Sleepy Eye, MN 56085
Office Phone: 507-794-5541
Email: Owen.Todd@Bolton-Menk.com

CLIENT: City of Redwood Falls

CONSULTANT: Bolton & Menk, Inc.

ATTACHMENTS TO THIS TASK ORDER:

AGENDA MEMO

Meeting Date: December 17, 2024

Agenda Item: Ordinance No. 94, Fourth Series – Proposed Zoning Amendments to the Unified Development Ordinance for Cannabis Businesses

Recommendation/Action Requested: Read the proposed ordinance or make a motion to waive the first reading of the ordinance. Discuss the proposed ordinance. If there are no concerns, proposed ordinance will be discussed again at the next Council Meeting on January 2, 2025, with a request for approval by motion in accordance with Chapter 4 of the City Charter.

Summary/Overview: Chapter 342 of Minnesota law was established in 2023 and was updated in 2024. This chapter allows local governments to protect the public health, safety, welfare of their residents by regulating cannabis businesses within their legal boundaries.

The City of Redwood Falls has the authority to adopt an ordinance pursuant to 1) Minn. Stat. 342.13(c) and 462.357, allowing a local unit of government to adopt zoning regulations in the form of reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses. After discussion of the issues surrounding cannabis business licensing, registration, and zoning at a work session on October 29th, City Council requested that Staff prepare a zoning ordinance for the regulation of cannabis businesses in Redwood Falls.

Ordinance No. 94 creates a new chapter in the Unified Development Ordinance for the regulation of cannabis businesses. The goal of the ordinance is to zone the various types of cannabis businesses in conformance with the City's comprehensive plan and compatible with pre-existing zoning districts and the uses allowed within them.

On December 10, 2024, after published notice in the Redwood Gazette, a public hearing was held by the Planning Commission to discuss Ordinance No. 94, Fourth Series. After the hearing, the Planning Commission adopted the Findings of Fact found in Section 2 of Ordinance No. 94 and recommended approval of Ordinance No. 94.

Attachment: Ordinance No. 94, Fourth Series
Zoning Map

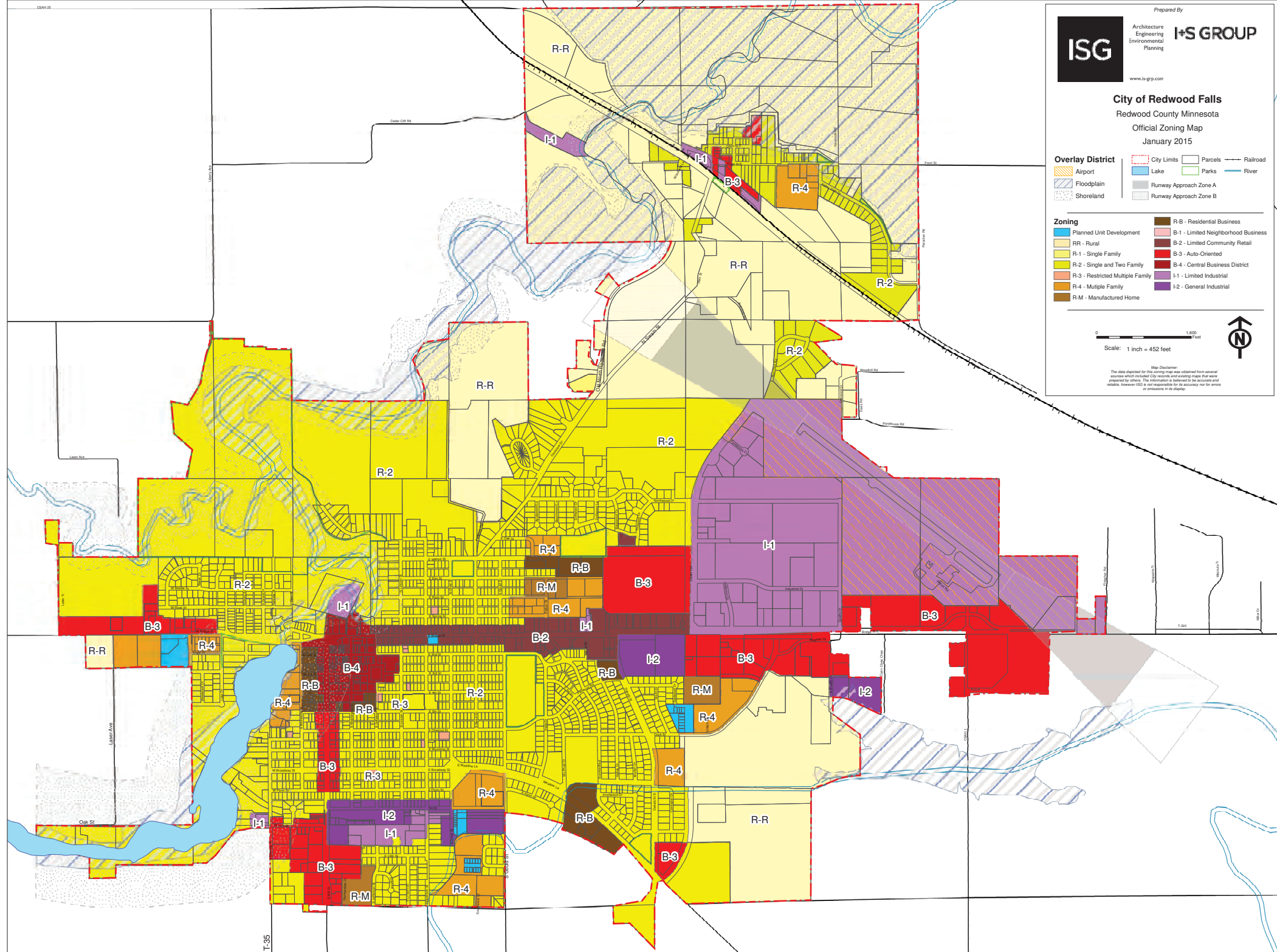
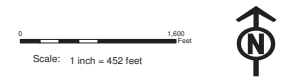


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City of Redwood Falls
Redwood County Minnesota
Official Zoning Map
January 2015

- Overlay District**
- Airport
 - Floodplain
 - Shoreland
 - City Limits
 - Lake
 - Parcels
 - Parks
 - Runway Approach Zone A
 - Runway Approach Zone B
 - Railroad
 - River

- Zoning**
- Planned Unit Development
 - RR - Rural
 - R-1 - Single Family
 - R-2 - Single and Two Family
 - R-3 - Restricted Multiple Family
 - R-4 - Multiple Family
 - R-M - Manufactured Home
 - R-B - Residential Business
 - B-1 - Limited Neighborhood Business
 - B-2 - Limited Community Retail
 - B-3 - Auto-Oriented
 - B-4 - Central Business District
 - I-1 - Limited Industrial
 - I-2 - General Industrial



ORDINANCE NO. 94, FOURTH SERIES

**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT
ORDINANCE, 2014 EDITION, AS PROVIDED IN §14.03 OF THE
REDWOOD FALLS CITY CODE, FOR THE PURPOSE OF REGULATING
CANNABIS BUSINESSES**

THE CITY COUNCIL OF REDWOOD FALLS DOES ORDAIN:

SECTION 1. PURPOSE.

WHEREAS, pursuant to State Statute §462.357 which enables cities to enact land use plans through zoning ordinances, a certain document, one (1) copy of which is on file in the office of the City Administrator of the City of Redwood Falls, being marked and designated as the Unified Development Ordinance, 2014 Edition, was adopted, after public hearing, as the Unified Development Ordinance of the City of Redwood Falls, State of Minnesota by Ordinance No. 44, Fourth Series, on November 7, 2014 by the City Council of Redwood Falls. The Unified Development Ordinance of the City of Redwood Falls, State of Minnesota, was adopted for regulating and governing zoning ordinances for the purpose of promoting public health, safety and the general welfare; for the future layout and landscape of the City for years to come; for the development or preservation of open space; for the redevelopment and revival of existing properties; and to develop future plans for harmonious and healthy land use patterns that are consistent with the goals of the City's Comprehensive Plan; and

WHEREAS, after public hearing, Ordinance No. 90, Fourth Series, adopted on May 21, 2024, adopted the Unified Development Ordinance, 2014 Edition, of the City of Redwood Falls with amendments to sections 7.18, 7.20, and 7.24, modifying, zoning, performance standards, and use designations for pools, residential accessory structures, and solar energy systems; and

WHEREAS, the Unified Development Ordinance, 2014 Edition, shall continue and remain adopted as the Unified Development Ordinance of the City of Redwood Falls, State of Minnesota. The Unified Development Ordinance, 2014 Edition, shall remain on file in the office of the City Administrator of the City of Redwood Falls, is hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance with amendments as noted below; and

WHEREAS, the Council finds and concludes that the proposed provisions are appropriate and lawful land use regulations for the City of Redwood Falls, that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good; and

WHEREAS, The City of Redwood Falls has the authority to adopt this ordinance pursuant to 1) Minn. Stat. 342.13(c), allowing a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses; and 2) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

SECTION 2. That after a public hearing and review of all the evidence pertaining to the request to amend the Unified Development Ordinance, 2014 Edition, as referenced in Section 7, the City Council of the City of Redwood Falls makes the following:

FINDINGS OF FACT

1. The amendments are consistent with the applicable policies of the City's Comprehensive and Land Use Plan.
2. The amendments do not purpose to change the zoning classification of a particular property.
3. The amendments are in the best interest of the public as they promote orderly development and are not solely for the benefit of a single property owner.

SECTION 3. CONFLICT AND REPEAL. That any and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Redwood Falls City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that anyone or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 5. APPLICATION. That nothing in this ordinance or in the Unified Development Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 6. That Chapter 14, Section 14.01 of the Redwood Falls City Code continue to read as follows:

"SEC. 14.01. UNIFIED DEVELOPMENT ORDINANCE. The Unified Development Ordinance, 2014 Edition, is hereby adopted by reference as though set forth verbatim herein. One copy of said Code shall be marked CITY OF REDWOOD FALLS-OFFICIAL COPY and kept on file in the office of the City Administrator and open to inspection and use by the public."

SECTION 7. That Chapter 14, §14.03 of the Redwood Falls City Code be amended to read as follows:

SEC. 14.03 [RESERVED]

"SEC. 14.03. AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE. *The Unified Development Ordinance, 2014 Edition, as adopted on November 7, 2014, April 6, 2021, and May 21, 2024, by reference as though set forth verbatim in §14.01 and §14.02, is hereby amended to read as follows:*

1. Chapter 17 CANNABIS BUSINESSES

ARTICLE 1. GENERAL PROVISIONS

17.01 Purpose

This chapter is established for the purpose of implementing the provisions of Minnesota Statutes, Chapter 342, which authorizes the Redwood Falls City Council to protect the public health, safety, welfare of Redwood Falls residents by regulating cannabis businesses within the legal boundaries of the City of Redwood Falls through the use of zoning requirements, and land use designations and restrictions.

17.02 Definitions

Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.

- (A) The term “Cannabis Business” means a business as defined in Minn. Stat. 342.01, as amended from time to time.
- (B) The term “Cannabis Cultivation” means a cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant, harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
- (C) The term “Cannabis Retail Business” means a cannabis business with a license or endorsement authorizing the retail sale of cannabis flower, plants, cannabis products, and lower-potency hemp products, including cannabis products sold for on-site consumption.
- (D) The term “Cannabis Retailer” means any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

- (E) The term “Indoor Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts within an indoor facility.
- (F) The term “Lower-Potency Hemp Edible” has the meaning as defined under Minn. Stat. 342.01, subd. 50, as amended from time to time.
- (G) The term “Lower-Potency Hemp Edible Retailer” means any place of business with a preapproved state license, license, or endorsement to sell lower-potency hemp edible products to the public from the Office of Cannabis Management and/or any place of business holding a valid pre-existing state registration as a hemp-derived cannabinoid business authorizing the sale of hemp-derived cannabinoid products directly to consumers.
- (H) The term “Office of Cannabis Management” means the Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.
- (I) The term “Outdoor Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts at an outdoor location.
- (J) The term “Retail Registration” means an approved registration issued by Redwood County to a state-licensed cannabis retail business.
- (K) The term “State License” means an approved license issued by the State of Minnesota’s Office of Cannabis Management to a cannabis retail business.
- (L) The term “Volatile Solvent” means any solvent that is or produces a flammable gas or vapor that, when present in the air in sufficient quantities, will create explosive or ignitable mixtures. Volatile Solvent includes but is not limited to butane, hexane, and propane.

ARTICLE 2. REQUIREMENTS

17.03 Zoning and Land Use

- (A) *Cultivation.* Cannabis businesses licensed or endorsed for cultivation are allowed as a permitted use in the listed zoning districts as follows:

- (1) *Indoor Cultivation:* I-1 Limited Industrial;
I-2 General Industrial; and
B-3 Auto-Oriented.
- (2) *Outdoor Cultivation:* I-1 Limited Industrial; and
R-R Rural Residential.

* Outdoor cultivation of up to 2 acres of mature flowering plants is allowed as a permitted use in the R-R zoning district, provided there is a minimum of five (5) acres of continuous land and all setbacks and conditions within the Redwood Falls Unified Development Ordinance are met.

- (B) *Cannabis Manufacturer.* Cannabis businesses licensed or endorsed for cannabis manufacturer are allowed as a permitted use in the following zoning districts:
- (1) I-1 Limited Industrial;
 - (2) I-2 General Industrial; and
 - (3) B-3 Auto-Oriented.
- (C) *Hemp Manufacturer.* Businesses licensed or endorsed for low-potency hemp edible manufacturers are allowed as a permitted use in the following zoning districts:
- (1) I-1 Limited Industrial;
 - (2) I-2 General Industrial; and
 - (3) B-3 Auto-Oriented.
- (D) *Wholesale.* Cannabis businesses licensed or endorsed for wholesale are allowed as permitted use in the following zoning districts:
- (1) I-1 Limited Industrial;
 - (2) I-2 General Industrial; and
 - (3) B-3 Auto-Oriented.
- (E) *Cannabis Retail.* Cannabis businesses licensed or endorsed for cannabis retail are allowed as a permitted use in the following zoning districts:
- (1) I-1 Limited Industrial;
 - (2) B-2 Limited Community Retail;
 - (3) B-3 Auto Oriented; and
 - (4) B-4 Central Business District.

* Lower-Potency Hemp Edible Retailers holding a valid preapproved state license, license or endorsement, or a registration as a hemp-derived cannabinoid business prior to the effective date of this ordinance shall be considered a legal nonconforming use within zoning districts not listed in this paragraph and may continue operating as Lower-Potency Hemp Edible Retailer and/or hemp-derived cannabinoid business so long as the retailer's state license and/or registration remains valid and is not discontinued for more than one year. A retailer that meets the requirements of this exemption may not expand the nonconforming use by applying for or obtaining any other state license, endorsement, or registration that would authorize the cultivation, manufacture, or sale of cannabis plants, cannabis flower, or other cannabis products.

- (F) *Cannabis Transportation.* Cannabis businesses licensed or endorsed for transportation are allowed as a permitted use in the following zoning districts:
- (1) I-1 Limited Industrial;
 - (2) I-2 General Industrial; and
 - (3) B-3 Auto-Oriented.
- (G) *Cannabis Delivery.* Cannabis businesses licensed or endorsed for delivery are allowed as a permitted use in the following zoning districts:
- (1) I-1 Limited Industrial;
 - (2) B-2 Limited Community Retail;
 - (3) B-3 Auto-Oriented; and
 - (4) B-4 Central Business District.

17.04 Advertising

- (A) Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building and/or on the property of the business in accordance with Chapter 10 of the Redwood Falls Unified Development Ordinance, unless otherwise limited or prohibited by Minnesota Statute.
- (B) Cannabis businesses shall comply with all advertisement requirements in Minn. Stat. 342.64, as amended from time to time.

17.05 Performance Standards

- (A) *Security.* Pursuant to Minn. Stat. 342.27, subd. 9, cannabis businesses shall at all times maintain compliance with security requirements established by OCM, including but not limited to requirements for maintaining video surveillance records, using specific locking mechanisms, establishing secure entries, and the number of employees working at all times.
- (B) *Shared Use.* A cannabis business is prohibited from sharing a common entrance or a premises with a business licensed as a tobacco products shop. This prohibition does not include Lower-Potency Hemp Edible Retailers.
- (C) *Nuisance.* Odors, noise, vibration, glare and other potential side effects of cannabis manufacturing or cultivation processes shall not be discernable beyond the property line. Except in the I-1 and I-2 zoning districts, the use of volatile solvents for cannabinoid extractions is prohibited.

SECTION 8. EFFECTIVE DATE. That this Ordinance becomes effective from and after its passage and publication of its adoption and reference that a printed copy of the Unified Development Ordinance is available for inspection by any person during regular office hours at the office of the City Administrator.

PASSED AND ADOPTED by the City Council of the City of Redwood Falls, Minnesota this 2nd day of January, 2025.

ATTEST:

Keith Muetzel
City Administrator

Tom Quackenbush
Mayor

(City Seal)

Subscribed and sworn to before me this
2nd day of January 2025.

Notary Public

Introduction: 12/17/2024
Posting:
Adopted: 01/02/2025
Approval Published:

AGENDA MEMO

Meeting Date: December 17, 2024

Agenda Item: Approval of Addendum to Law Enforcement Center Lease Agreement

Recommendation/Action Requested: Discuss the proposed lease addendum. If there are no concerns, staff recommend approval of the lease addendum by motion in accordance with Chapter 4 of the City Charter.

Summary/Overview: In August of this year the Redwood Falls Police Department was assigned an Information Technology Security Audit from the Minnesota Bureau of Criminal Apprehension (BCA). In the process of completing this audit, the BCA found that RFPD was not in compliance with FBI CJIS Security Policy, Section 5.9.1.2 which requires the agency to develop and keep current a list of personnel with authorization to access the agency's physical secure location and FBI CJIS Security Policy, Section 5.9.1.3 which requires the agency to control all physical access points and verify individual access authorization.

The Law Enforcement Center Lease Agreement commenced on September 2, 2014, and runs for a term of 15 years to an expiration date of August 31, 2029. Instead of creating a new agreement to satisfy the requirements of the BCA audit, it was determined that a formalized security addendum to the existing lease agreement would be an appropriate remedy. This addendum outlines procedures for physical access to a specific secure location, ensuring adherence to the BCA policies aforementioned.

The addendum was presented to the Redwood County Attorney's Office and was approved as to form and will have been presented to the Redwood County Board of Commissioners for approval as of the morning of December 17, 2024.

Attachment: Addendum to Law Enforcement Center Lease Agreement
Law Enforcement Center Lease Agreement

ADDENDUM TO LAW ENFORCEMENT CENTER LEASE AGREEMENT

THIS ADDENDUM to the Law Enforcement Center Lease Agreement (hereinafter, the “Agreement”), between the City of Redwood Falls, a home-rule charter city of the State of Minnesota (hereinafter, the “Tenant”), and the County of Redwood, a political subdivision of the State of Minnesota (hereinafter, the “Landlord”), dated September 2, 2014, is hereby entered into this _____ day of _____, 2024, by and between Tenant and Landlord.

RECITALS

WHEREAS, due to requirements found in the U.S. Department of Justice’s Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Security Policy (hereinafter, the “Policy”), specifically addressing the protection of physical spaces and environments where Criminal Justice Information (CJI) and/or systems used to process, store, or transmit CJI are located; Tenant and Landlord agree that the Agreement is in need of amendment; and

WHEREAS, this Addendum to the Agreement is entered into for the purpose of addressing Landlord’s and Landlord’s employees, agents, representatives, and visitors unescorted access to the Premises during the term of the Agreement.

NOW, THEREFORE, Tenant and Landlord agree to the following terms and conditions of this Addendum, which are incorporated by reference into the Agreement.

1. The Premises constitutes a physically secure location, defined as a facility or an area, room, or group of rooms within a facility with both the physical and personnel security controls sufficient to protect the FBI CJI and associated information systems contained therein.
2. Whenever Landlord shall access the Premises for inspection, maintenance, or any other purpose, Landlord shall be responsible for the physical security of the Premises and compliance with FBI CJIS Security Policy requirements.
3. A visitor is defined as a person who visits the Premises on a temporary basis who is not employed by Landlord or Tenant and shall have no unescorted access to the Premises.
4. An escort is defined as authorized personnel who accompanies a visitor at all times while within the Premises to ensure the protection and integrity of the Premises and any CJI and associated information systems contained therein.
5. Landlord and Landlord’s agents, representatives, and/or employees shall have the appropriate state and national fingerprint-based record background check prior to accessing the Premises without escort from Tenant. If Landlord provides access to the Premises to any visitor, Landlord shall be responsible for screening the visitor through a valid form of photo identification and escorting the visitor at all times while within the Premises when Tenant’s authorized personnel are not present.
6. Landlord shall keep a log of all access of the Premises by itself, any of its agents, representatives, and employees and any visitors escorted by Landlord. The access log shall be kept for a period of at least one year. The access log shall include: name of Landlord’s agent, representative, or employee; name of visitor and visitor’s agency, if any; the purpose for access, date of access,

time of arrival and departure, and the form of identification used to authenticate any visitor. A current access log shall be provided to Tenant upon request.

- 7. Only authorized personnel shall have unescorted access to the Premises. Tenant and Landlord shall maintain and keep current respective lists of all authorized personnel.
- 8. Tenant and Landlord shall be responsible for verifying that all individuals respectively listed as authorized personnel have met all minimum personnel screening requirements prior to accessing the Premises, as required by the Policy; including but not limited to: identity verification, fingerprint-based record checks, and completion of security awareness training.
- 9. Landlord shall report any physical security incidents that may occur to Tenant’s Local Agency Security Officer (LASO), if the incident occurs while Tenant’s authorized personnel are not present within the Premises.
- 10. Landlord shall ensure that the Premises perimeter security doors are securely locked after entry and departure and shall not leave any perimeter door propped open and take measures to prevent piggybacking entries.

IN WITNESS WHEREOF, the parties hereto have caused their authorized representatives to execute and deliver this Addendum, to be effective as of the day and year first above written.

County of Redwood
a Political Subdivision of the State of Minnesota

By: _____
Its Board Chair

By: _____
Its Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF REDWOOD)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2024, by _____ and _____, the Board Chair and Administrator, respectively, of the County of Redwood, a Political Subdivision of the State of Minnesota, on behalf of the County.

Notary Public

City of Redwood Falls,
a Minnesota Home-Rule Charter City

By: _____
Tom Quackenbush
Its Mayor

By: _____
Keith Muetzel
Its City Administrator

STATE OF MINNESOTA)
) ss.
COUNTY OF REDWOOD)

The foregoing instrument was acknowledged before me on this ____ day of _____ 2024, by Tom Quackenbush and Keith Muetzel, the Mayor and City Administrator, respectively, of the City of Redwood Falls, a Minnesota home-rule charter City, on behalf of the City of Redwood Falls.

Notary Public

This document drafted by:
Redwood Falls City Attorney (TLD)
333 S. Washington Street, P.O. Box 526
Redwood Falls, MN 56283

APPROVED AS TO FORM
Redwood County Attorney's Office

By:  _____

Title: Assistant Redwood County Attorney

Date: 12.10.2024 | _____

**LAW ENFORCEMENT CENTER
LEASE**

by and between

**County of Redwood,
a political subdivision of the State of Minnesota,**

Landlord,

and

**City of Redwood Falls,
a political subdivision of the State of Minnesota,**

Tenant.

DATA SHEET

Effective Date: September 2, 2014

Landlord: County of Redwood, a political subdivision of the State of Minnesota

Landlord's Address: P.O. Box 130
Redwood Falls, Minnesota 56283
Attention: County Administrator

Tenant: City of Redwood Falls, a political subdivision of the State of Minnesota

Tenant's Address: PO Box 526
Redwood Falls, MN 56283
Attention: City Administrator

Leased Premises: That certain office space that consists of approximately 4,400 square feet of renovated space and shared space that is situated in the Building at the location designated on Exhibit "A" attached hereto. These leased premises include a securable room measuring approximately 109.25 square feet which is located in the basement of the Redwood County Courthouse and is identified as "Evidence Room."

Common Area: That certain portion of the Building and surrounding real property that is designated on Exhibit "B" attached hereto.

Commencement Date: The "Commencement Date" is September 2, 2014.

Expiration Date: The "Expiration Date" is August 31, 2029.

Extension Option: Two (2) additional fifteen (15) year options to extend in accordance with the terms and conditions of Paragraph 3 hereof.

Construction Contribution: Beginning on the Commencement Date and continuing through the Expiration Date, Construction Contribution shall be due at an annual rate of \$33,725, which shall be payable by Tenant, in advance, in monthly installments equal to \$2,810.41 (as prorated for any partial calendar month in which the Commencement Date occurs). The Construction Contribution shall be payable during only the Lease Term (as defined in Paragraph 2) and not during any Extension Term if exercised in accordance with Paragraph 3.

Annual Lease Payment: Beginning on the Commencement Date and continuing through the Expiration Date, the Annual Lease Payment shall be \$51,200.00, which shall be payable by Tenant, in advance, in monthly installments equal to \$4266.67 (as prorated for any partial calendar month in which the Commencement Date occurs). Operating Costs, as herein defined in Paragraph 9, are included in the Annual Lease Payment and may be modified as of September 1, 2021.

Annual Interest Payment: Beginning on the Commencement Date and continuing through the Expiration Date, the Annual Interest Payment on the bond for the building project shall be \$4,706.00 (a proportional share of the \$450,140 interest on a \$3.1 million bond issue), which shall be payable by Tenant, in advance, in monthly installments equal to \$392.17 (as prorated for any partial calendar month in which the Commencement Date occurs). The Annual Interest Payment shall be payable during only the Lease Term (as defined in Paragraph 2) and not during any Extension Term if exercised in accordance with Paragraph 3.

Operating Costs
Differential:

Beginning on the Commencement Date and continuing until the 7th anniversary of the Commencement Date, the Operating Cost Differential shall be due at an annual rate of \$609.00, which shall be payable by Tenant, in advance, in monthly installments equal to \$50.75 (as prorated for any partial calendar month in which the Commencement Date occurs). Beginning on the 7th Anniversary and continuing until the Expiration Date, the Operating Cost Differential shall be paid in accordance with Paragraph 9 hereof.

Total Annual Payment:

Beginning on the Commencement Date and continuing until the 7th anniversary of the Commencement Date, the Total Annual Payment, which is calculated as the sum of the Construction Contribution, the Annual Lease Payment, the Annual Interest Payment and the Operating Cost Differential, shall be \$90,240.00, which shall be payable by Tenant, in advance, in monthly installments equal to \$7,520.00 (as prorated for any partial calendar month in which the Commencement Date occurs). The Total Annual Payment will be readjusted as necessary on the 7th Anniversary of the Commencement Date as herein provided.

The information in this Data Sheet is incorporated and made a part of this lease agreement (the "Lease"). If there is a conflict between this information and the remainder of the Lease, the foregoing information in the Data Sheet shall control.

LEASE AGREEMENT

THIS LEASE AGREEMENT is entered by and between Landlord and Tenant as of the Effective Date. Capitalized terms shall have the same meaning as those contained on the Data Sheet, the provisions of which Data Sheet are hereby incorporated by reference.

1. Premises. Landlord hereby demises and leases the Premises to Tenant, and Tenant hereby rents and takes the Premises from Landlord, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease. Landlord shall deliver possession of the Premises to Tenant on the "Date of Delivery" (as defined in Paragraph 31 hereof). The use by Tenant of the Premises shall include a non-exclusive right of access over and use of the Common Area. The Premises is located in a certain building (the "Building") that is part of a structure commonly referred to as the Redwood County Law Enforcement Center in Redwood Falls, Minnesota, which Building is situated on real property (the "Property") that is depicted on Exhibit "A" attached hereto. The Common Area for which Tenant shall have right of access over and use of is depicted on Exhibit "B" attached hereto. It is acknowledged that the Property is subject to certain easements, covenants and restrictions, and Tenant agrees to lease the Premises subject to such encumbrances. The Premises shall include additional securable space (hereinafter identified as "Evidence Room") which is located in the basement of the Redwood County Courthouse and measures approximately 9.5 feet by 11.5 feet (or a total of 109.25 square feet). This Evidence Room will be securable and will be used by the Tenant under this Lease Agreement.

2. Lease Term. The "Commencement Date" shall refer to the date designated on the Data Sheet. The term of this Lease (the "Lease Term") shall begin upon the Commencement Date and shall continue until the Expiration Date, unless sooner terminated as herein set forth.

3. Extension Option. Tenant shall have the option to extend its tenancy beyond the initial term of this Lease for two (2) fifteen (15) year periods (the "Extension Terms") upon the following terms and conditions: (i) Tenant shall give Landlord written notice of its election to exercise such option (the "Extension Notice") not later than two hundred and ten (210) days prior to the Expiration Date; and (ii) Tenant shall not be in material default under the Lease beyond any period of cure permitted hereunder and the Lease shall be in full force and effect both on the date Tenant delivers an Extension Notice and, unless waived by Landlord, on the Expiration Date. If Tenant timely and properly exercises the foregoing option, the following terms and conditions shall also be applicable:

- a. Operating Costs. Following notice of Tenant's intention to exercise an Extension Term, Landlord and Tenant shall review the 7 year historical Operating Costs of the Premises in an effort to more closely forecast future annual Operating Costs. During each Extension term, Tenant shall pay to Landlord, in monthly installments, in advance and on the first day of each calendar month during such Extension Term, one-twelfth of such annual Operating Costs and that amount will be included in the Annual Lease Payment. In the event the parties are unable to negotiate such Operating Costs, either party may terminate the negotiations by providing notice to the other not more than 30 days prior to the Expiration Date.
- b. Other Provisions. Except as otherwise stated in this Paragraph 3, all terms and conditions of the Lease shall remain in full force and effect during the Extension Term, if any; provided, Landlord shall have no obligation to construct, or contribute to the cost of constructing any leasehold improvements to the Premises during the Extension Term.

4. Lease Payment. Tenant shall pay to Landlord for the entire term hereof, a fixed Annual Lease Payment (herein called the "Lease Payment") in the amount set forth in the Data Sheet. The Lease Payment shall be paid in monthly installments, in advance, on the first day of each calendar month during the Lease Term. If the month in which the Commencement Date occurs is less than a full calendar month, the Lease Payment for such partial month shall be prorated at the rate of one-thirtieth of the monthly Lease Payment for each day, payable in advance. Tenant shall make payment of said Lease Payment, together with payment of its share of Construction Contribution, Interest Payment, Operating Costs Differential and all other amounts due to Landlord, at the address

designated in the Data Sheet, or to such other party or address as Landlord may designate from time to time by notice to Tenant.

5. Interest Payment. Tenant shall pay to Landlord for the entire term hereof, a fixed Annual Interest Payment (herein called "Interest Payment") in the amount set forth in the Data Sheet. The Interest Payment shall be paid in monthly installments, in advance, on the first day of each calendar month during the Lease Term of 180 months from the Commencement Date as that term is defined on the Data Sheet. If the month in which the Commencement Date occurs is less than a full calendar month, the Interest Payment for such partial month shall be prorated at the rate of one-thirtieth of the monthly Interest Payment for each day, payable in advance. Tenant shall make payment of said Interest Payment, together with payment of its share of Operating Costs and all other amounts due to Landlord, at the address designated in the Data Sheet, or to such other party or address as Landlord may designate from time to time by notice to Tenant.

6. Construction Contribution. Tenant shall pay to Landlord hereof, a fixed payment (herein called "Construction Contribution") in the amount set forth in the Data Sheet. Construction contribution shall be paid in monthly installments, in advance, on the first day of each calendar month during the Lease Term of 180 months from the Commencement Date as that term is defined on the Data Sheet. If the month in which the Commencement Date occurs is less than a full calendar month, Construction Contribution for such partial month shall be prorated at the rate of one-thirtieth of the monthly Construction Contribution for each day, payable in advance. Tenant shall make payment as said Construction Contribution, together with payment of its share of Operating Costs, Lease Payment and Interest Payment and all other amounts due to Landlord, at the address designated in the Data Sheet, or to such other party or address as Landlord may designate from time to time by notice to Tenant. All Construction Contribution during the Lease term shall be payable without demand and without deduction, set-off, counterclaim or abatement, except as expressly provided herein.

7. Operating Costs Differential: Tenant shall pay to Landlord beginning on the Commencement Date and continuing until the 7th anniversary of the Commencement Date, a fixed Operating Cost Differential in the amount set forth in the Data Sheet. The Operating Costs Differential shall be paid in monthly installments, in advance, on the first day of each calendar month during the Lease Term. If the month in which the Commencement Date occurs is less than a full calendar month, the Operating Costs Differential for such partial month shall be prorated at the rate of one-thirtieth of the monthly Operating Costs Differential for each day, payable in advance. Tenant shall make payment of said Operating Costs Differential, together with payment of its share of Construction Contribution, Lease Payment and Interest Payment and all other amounts due to Landlord, at the address designated in the Data Sheet, or to such other party or address as Landlord may designate from time to time by notice to Tenant.

8. Use. The Premises shall be used solely for law enforcement purposes, and such other accessory uses that customarily associated with law enforcement purposes. Tenant shall comply with all governmental laws, ordinances and regulations applicable to the use of the Premises, and shall promptly comply with all governmental orders and directives for the correction, prevention and abatement of any nuisance in, upon, or connected with, the Premises, all at Tenant's sole expense. Tenant shall not permit any objectionable odors, smoke, dust, gas, noise, or vibrations to emanate from the Premises, nor take any other action that may constitute a nuisance or may disturb or endanger any other tenants of the Building or neighboring buildings, or unreasonably interfere with any other tenant's use of its premises. Tenant will not permit the Premises or Common Area to be used for any purpose or in any manner, including, without limitation, the storage or parking of automobiles or trailers (except emergency vehicles used for law enforcement purposes), or any method of storage that would render the insurance on the Building or the Property void or the insured risks more hazardous. If any increase in the fire and extended coverage insurance premiums paid by Landlord for the Property is caused by Tenant's use and occupancy of the Premises, then Tenant shall pay to Landlord as additional rent the amount of such increase.

9. Operating Costs. As the parties have no way to accurately forecast Operating Costs of the Premises, they have agreed to incorporate the parties' best estimate of operating costs in the Annual Lease Payment during the first seven years of the Lease Term. Each party acknowledges this figure is fair and accurate. During the period between the sixth and seventh anniversary, Landlord and Tenant shall review the historical Operating Costs of the Premises in an effort to more closely forecast future annual Operating Costs. In the event the parties are unable to agree on an amount, both parties shall utilize an agreed-upon third party engineer, architect, or other similar designate to investigate and settle the matter. The designate shall have full access to examine Landlord's books and records of Operating Costs in order to make a report and recommendation in an effort to resolve the

matter. Any fees or costs charged by the designate during the investigation, examination and report of the designate shall be shared equally by the Landlord and Tenant. The chosen designate's decision shall be binding upon both parties. Landlord shall use its best efforts to forecast such annual costs and shall notify Tenant, in writing, of these annual costs prior to the seventh anniversary. Following the seventh anniversary of the Commencement Date, Tenant shall pay to Landlord, in monthly installments, in advance and on the first day of each calendar month during the Lease Term, one-twelfth of such annual Operating Costs, which shall be incorporated into the Annual Lease Payment. As used in this Lease, the term "Operating Costs" shall mean all water, gas, heat, light, power, sewer and sprinkler charges and other utilities and services provided to the Premises, together with any taxes, penalties, surcharges or the like pertaining thereto, general trash removal (except each party shall be responsible for any additional charges due to the removal of large, bulky or excess trash); wages, salary, fringe benefits, life and hospitalization insurance of any persons employed by the County as custodian; and general liability insurance premiums insuring the Building. Operating Costs shall not be defined to include Telecommunication Services that are described in Paragraph 10 hereof. In the event that such services are not separately metered, Tenant's responsibility shall be reasonably estimated by Landlord using a fraction, the numerator of which shall be equal to the number of square feet in the Premises and the denominator of which shall be equal to the number of square feet in the Building. Landlord shall in successive years, prior to beginning of each calendar year, provide Tenant with notice of Landlord's estimate of Operating Costs for the upcoming calendar year. In no event shall Landlord be liable for any interruption or failure of utility services on the Premises. Within ninety (90) days after the close of each calendar year or as soon thereafter as practicable, Landlord shall deliver to Tenant a summary of the total Operating Costs for the previous calendar year and Tenant's share thereof. If such summary shows an amount due from Tenant that is less than the estimated payments previously paid by Tenant, the amount of such excess shall be applied as a credit against the installment payments of Tenant's share of Operating Costs that next become due. If such summary shows an amount due from Tenant that is more than the estimated payments previously paid by Tenant, Tenant shall pay the deficiency to Landlord, within thirty (30) days after delivery of the summary. Tenant shall have the right to examine Landlord's books and records of Operating Costs during normal business hours within sixty (60) days following the furnishing of the summary to Tenant. Unless Tenant takes written exception to any item within sixty (60) days following the furnishing of the summary to Tenant (which item shall be paid in any event), such summary shall be deemed final and accepted by Tenant.

10. Dispatch/Telecommunication Services.

- a. Landlord hereby agrees to provide, at no additional cost to Tenant, dispatch services to the Tenant twenty-four (24) hours a day through the Landlord-staffed communications control center/dispatch area. Tenant understands and agrees that the detention area and the communications control center/dispatch area shall be staffed and operated exclusively by Landlord. Landlord further agrees to reserve no less than two lines on its telephone network for the exclusive use by the Tenant. Tenant shall purchase sufficient handsets necessary to access and utilize Landlord's telephone network and thereafter pay the cost of maintaining the same. A third line for facsimile transmission and receiving purposes shall also be made available for use by the Tenant. The Landlord also shall reserve all telecommunication/internet/data transmission facilities for Tenant use as specified on Exhibit C attached hereto. All telephone/facsimile/telecommunication/internet/ data transmission facilities shall be defined, collectively, as "Telecommunication Services." Tenant shall pay all monthly charges, installation fees, maintenance fees and other charges associated with the Telecommunication Services reserved for its exclusive use. The installation of such Telecommunication Services shall be conducted only after written notice to Landlord, and shall be conducted in a manner that does not damage the Premises or Building nor interfere with the operations of the Building.
- b. Landlord shall provide, at no additional cost to Tenant, Emergency 911 services and dispatching services to the Tenant 24 hours a day/365 days a year, throughout the terms of this Lease. Tenant agrees and understands that the communications control area and the detention area of the building shall be operated exclusively by Landlord personnel, and shall be controlled at all times by Landlord.

11. Landlord's Maintenance Responsibilities. Landlord shall maintain in good repair, reasonable wear and tear and casualty excepted, all parts of the Common Area, the exterior of the Building and all structural elements of the Building, including footings, foundation walls and roof, making all necessary repairs and replacements, whether ordinary or extraordinary, structural or nonstructural. "Common Area" shall refer to all areas designed and designated by Landlord for common use or benefit as depicted on Exhibit "B" hereof. The Common Area shall not include roads within the outer property limits, while maintained by public authority. The Common Area and/or the Building may be expanded, contracted or changed by Landlord from time to time as deemed desirable by Landlord in its sole discretion. Tenant shall immediately give Landlord written notice of any defect or need for such repairs, and after receipt of such written notice from Tenant, Landlord shall have a reasonable opportunity to repair the same or cure such defect. The term "walls", as used in this Paragraph 8, shall not include windows, glass or plate glass, doors, or office entries.

12. Tenant's Maintenance Responsibilities. Tenant shall, at its own cost and expense, keep and maintain all parts of the Premises in good condition, and shall promptly make all necessary repairs and replacements, including, but not limited to, interior windows, doors, any special entry, interior walls and finish work, floors and floor covering. Notwithstanding the foregoing, Tenant shall not be obligated to repair any damage caused by fire, tornado or other casualty or occurrence to the extent that such damage is covered by the insurance maintained by Landlord.

13. Alterations. Tenant shall not make any alterations, additions, or improvements to the Premises (including, but not limited to, roof and wall penetrations), without the prior written consent of Landlord. All alterations, additions, improvements and partitions erected by Tenant (other than trade fixtures and the personal property of Tenant), shall become the property of Landlord as of the date of the expiration or earlier termination of this Lease and shall be delivered to Landlord with the Premises; provided, however, that if Landlord so elects, such alterations, additions, improvements and partitions shall be removed by Tenant and Tenant shall restore the Premises to its original condition by the date of termination of this Lease, reasonable wear and tear and damage by casualty excepted. All such removals and restoration shall be accomplished in a good and workmanlike manner and shall not damage the primary structure or structural elements of the Building.

14. Signs/Window Coverings. Tenant may, without the prior written consent of Landlord, professionally install or affix window coverings, blinds, draperies, signage, window and door lettering consistent with Building decor. Tenant shall remove any permitted signs and window coverings upon the expiration or earlier termination of this Lease. Any such installations and removals shall be made in such manner as to avoid injury or defacement of the Building and Tenant shall repair any such injury or defacement.

15. Inspection. Landlord and Landlord's agents and representatives shall have the right to enter and inspect the Premises at any reasonable time for the purpose of ascertaining the condition of the Premises, to make such repairs as may be required or permitted to be made by Landlord under the terms of this Lease. Tenant shall participate in a meeting with Landlord for a joint inspection of the Premises prior to vacating. In the event of Tenant's failure to attend such joint inspection, Landlord's inspection at or after Tenant's vacating the Premises shall be presumptively deemed correct for purposes of determining Tenant's responsibility for repairs and restoration.

16. Assignment and Subletting. Tenant shall not have the right to assign or pledge this Lease or to sublet the whole or any part of the Premises, whether voluntarily or by operation of law, or permit the use or occupancy of the Premises by anyone other than Tenant.

17. Fire and Casualty Damage.

- (a) If the Building or Premises are rendered partially or wholly untenantable by fire or other casualty, and if such damage cannot, in Landlord's reasonable estimation, be materially restored within three hundred sixty-five (365) days of such damage, then Landlord may, at its sole option, terminate this Lease as of the date of such fire or casualty. Landlord shall exercise its option provided herein by written notice to Tenant within sixty (60) days of such fire or other casualty. For purposes hereof, the Building or Premises shall be deemed "materially restored" if they are in such condition as would not prevent or

materially interfere with Tenant's use of the Premises for the purposes for which it was then being used.

- (b) If this Lease is not terminated pursuant to Paragraph 17(a), then Landlord shall proceed with reasonable diligence to repair and restore the Building or Premises, as the case may be (except that Landlord may elect not to rebuild if such damage occurs during the last year of the Lease Term exclusive of any option which is unexercised as of the date of such damage).
- (c) If this Lease shall be terminated pursuant to this Paragraph 17, the term of this Lease shall end on the date of such damage as if that date had been originally fixed in this Lease for the expiration of the Lease Term. If this Lease shall not be terminated by Landlord pursuant to this Paragraph 17 and if the Premises is untenantable in whole or in part following such damage, the Rent payable during the period in which the Premises is untenantable shall be reduced to the extent of such untenantability. In the event that Landlord should fail to complete such repairs and material restoration within three hundred sixty-five (365) days after the date of such damage, Tenant may, at its option and as its sole remedy, terminate this Lease by delivering written notice to Landlord, whereupon the Lease shall end on the date of such notice as if the date of such notice were the date originally fixed in this Lease for the expiration of the Lease Term; provided, however, that if construction is delayed because of changes, deletions or additions in construction requested by Tenant, strikes, lockouts, casualties, acts of God, war, material or labor shortages, governmental regulation or control, or other causes beyond the reasonable control of Landlord, the period for restoration, repair or rebuilding shall be extended for the amount of time Landlord is so delayed. In no event shall Landlord be required to rebuild, repair or replace any part of the equipment, racking, shelving, partitions, fixtures, additions or other personal property or improvements which may have been placed in or about the Premises by Tenant. Any insurance which may be carried by Landlord or Tenant against loss or damage to the Building or Premises shall be for the sole benefit of the party carrying such insurance and under its sole control.
- (d) Notwithstanding anything herein to the contrary, in the event the holder of any indebtedness secured by a mortgage covering the Premises, Building or Common Area requires that any insurance proceeds be applied to such indebtedness, then Landlord shall have the right to terminate this Lease by delivering written notice of termination to Tenant within fifteen (15) days after such requirement is made by any such holder, whereupon the Lease shall end on the date of such damage as if the date of such damage were the date originally fixed in this Lease for the expiration of the Lease Term.
- (e) In the event of any damage or destruction to the Building or the Premises by any peril contemplated by the provisions of this Paragraph 17, or in the event of termination as a consequence of condemnation as contemplated in Paragraph 18 hereof, Tenant shall, upon notice from Landlord, remove forthwith, at its sole cost and expense, the property belonging to Tenant from such portion of the Building as Landlord shall request and Tenant hereby waives any and all claims it may have, now or in the future, against Landlord arising in connection with damage to such property occurring as a result of any alleged failure to properly secure the Premises prior to such removal.
- (f) Notwithstanding any contrary provision herein, Tenant hereby waives any claims against Landlord relating to, and Landlord shall not be liable to Tenant for, any damage to any equipment, inventory, tenant fixture or other personal property situated in the Premises or in, on or about the Property due to any condition, design or defect in the Building or leakage of the roof, windows and pipes, or of damage from gas, oil, water, steam, smoke or electricity, or due to any other cause whatsoever, including Landlord's negligence, and Tenant assumes all risks of damage to such property; provided, the waiver and

assumption contemplated by this sentence shall apply only to the extent covered by insurance in place or required to be maintained by the terms of this Lease.

18. Condemnation.

- (a) If any substantial part of the Building, Property or Premises should be taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, and the taking would prevent or materially interfere with the use of the Building or Premises for the purpose for which it is then being used, at the sole option of Landlord, this Lease shall terminate effective when the condemning authority acquires possession in the same manner as if the date of such taking were the date originally fixed in this Lease for the expiration of the Lease Term.
- (b) If part of the Building or Premises shall be taken by right of eminent domain, or by private purchase in lieu thereof, and this Lease is not terminated as provided in subparagraph 18(a) above, this Lease shall not terminate but the rent payable hereunder during the unexpired portion of this Lease shall be reduced to such extent, if any, as may be fair and reasonable under all of the circumstances. In such event, Landlord shall undertake to restore the Building and Premises to a condition suitable for Tenant's use, as near to the condition thereof immediately prior to the taking of such improvements as is reasonably feasible under all the circumstances.
- (c) Upon any such taking or purchase, Landlord shall be entitled to receive and retain the entire award or consideration for the affected lands and improvements, subject to the rights of the holder of any mortgage of Landlord's interest in the Property or the Building, and Tenant shall not have nor advance any claims against Landlord or the condemning authority for the value of its property or its leasehold estate or the unexpired Lease Term, or business interruption expense or any other damages arising out of such taking or purchase; provided, the foregoing shall not be construed to preclude Tenant from seeking and recovering on its own account from the condemning authority any separate award or compensation attributable solely to the taking or purchase of Tenant's chattels or trade fixtures or attributable to Tenant's relocation expenses provided that any such separate claim by Tenant shall not reduce or adversely affect the amount of Landlord's award. If any such award made or compensation paid to either party specifically includes an award or amount for the other, the party first receiving the same shall promptly account herefore to the other.

19. Indemnification. Subject to the waiver of claims set forth in Paragraph 17(f) hereof, Tenant shall indemnify Landlord from and against any and all demands and liabilities arising from or relating to injury or loss of life to persons or damage to or loss of property to the extent occurring in the Premises or arising from Tenant's negligence or intentional misconduct; provided, Tenant's obligation to indemnify Landlord for injury or damage occurring in the Premises from causes other than Tenant's negligence or intentional acts shall be limited to the extent of insurance proceeds, if any, available pursuant to the terms of policies of liability insurance maintained by Tenant or required to be maintained by Tenant by the terms of this Lease. Subject to the provisions of Paragraph 17(f) hereof and to the foregoing sentence, Landlord shall indemnify Tenant from and against any and all demands and liabilities for or relating to injury or loss of life to persons or damage to or loss of property to the extent caused by Landlord's negligence or intentional misconduct. The duties to indemnify contemplated hereby include the duty to pay all reasonable and necessary attorneys' fees and costs incurred by the indemnitee in connection with any such proceedings and shall survive the termination of the Lease; provided, such duties shall only be applicable to the extent that they are not limited by the waiver of claims provision of Paragraph 17(f) of the Lease. This indemnification is not intended to benefit any party other than the parties to this Lease. Through the execution of this lease, neither party waives any statutory limitations enumerated in Minnesota Statutes § 466, or similar statutes, as the same may be modified from time to time.

20. Tenant's Insurance.

- (a) Liability Insurance. Tenant shall, at its sole cost and expense, maintain in effect at all times during the Lease Term a "Commercial General Liability Insurance" policy with a total policy limit of at least \$1,000,000.00 (each occurrence/aggregate), which policy shall include, but not be limited to, coverages for Bodily Injury, Property Damage, Personal Injury and Contractual Liability (applying to this Lease), or an equivalent form (or forms), so long as such equivalent form (or forms) affords coverage which is at least as broad. Tenant's liability insurance coverage may be subject to a "deductible", "retention" or "participation" (or other similar provision) requiring the Tenant to remain responsible for a stated amount or percentage of each covered loss. Such policy shall name Landlord as an Additional Insured thereunder.
- (b) Property Insurance. Tenant shall, at its sole cost and expense, maintain in effect at all times during the term of the Lease insurance covering all of Tenant's improvements, fixtures, inventory and other personal property in the Premises against loss by fire and other hazards covered by the so-called "all-risk" form of policy, in an amount equal to the actual replacement cost thereof, without deduction for physical depreciation. Such insurance shall include Valuable Papers and Records coverage providing for the Reproduction Costs measure of recovery; and coverage for damage to Electronic Data Processing Equipment and Media, including coverage of the perils of mechanical breakdown and electronic disturbance. If the Tenant's property in the Premises includes steam boilers or other equipment excluded from coverage pursuant to a Boiler and Machinery exclusion, such insurance policy shall include Boiler and Machinery insurance in an amount reasonably satisfactory to Landlord.
- (c) Workers' Compensation. At all times during the Lease Term, Tenant shall procure and maintain Workers' Compensation Insurance in accordance with the laws of the State of Minnesota.
- (d) Policy Provisions. Policies for the liability and property insurance coverages contemplated by this Paragraph shall be in a form and with an insurer reasonably acceptable to Landlord and shall require at least thirty (30) days prior written notice to Landlord, and, if requested by Landlord, Landlord's mortgagee(s), of termination or material alteration. The liability insurance under subparagraph 20(a) shall be primary with respect to Landlord and its agents and not participating with any other available insurance. Tenant shall deliver on the Commencement Date and on each anniversary thereof to Landlord a certificate evidencing such policies, or other evidence reasonably satisfactory to Landlord, confirming the terms of such insurance, confirming that premiums thereon have been paid at least one (1) year in advance and confirming that the policies are in full force and effect. If Tenant has a blanket insurance policy in force providing coverage for several properties of Tenant, including the Premises, Landlord will accept a certificate of such insurance; provided, the certificate sets forth the amounts of insurance and coverage, such amounts are at least equal to the amounts required hereinabove, and otherwise such policy complies with the requirements hereof.

21. Holding Over. Tenant will, at the termination of this Lease by lapse of time or otherwise, yield up immediate possession of the Premise to Landlord. If Tenant retains possession of the Premises, or any part thereof after such termination, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes the creation of a month to month tenancy upon the terms and conditions set forth in this Lease; provided, however, that the monthly Annual Lease Payment shall be equal to 150% of the Annual Lease Payment being paid monthly to Landlord under this Lease immediately prior to such termination. Regardless of Landlord's election to extend this Lease on a month-to-month basis, Tenant shall also pay to Landlord any actual damages sustained by Landlord resulting from such retention of possession by Tenant.

22. Quiet Enjoyment. Landlord represents and warrants that it has full right and authority to enter into this Lease and that Tenant, while paying the rental and performing its other covenants and agreements herein set forth, shall peaceably and quietly have, hold and enjoy the Premises for the Lease Term without hindrance or molestation, subject to the terms and provisions of this Lease.

23. Events of Default. The following events shall be deemed to be events of default by Tenant under this Lease (individually, an "Event of Default" and collectively, "Events of Default"):

- (a) Rent. Tenant shall fail to pay any installment of Construction Contribution, its share of Operating Costs, or any other payment to Landlord required herein (collectively, "Rent") when due, and such failure shall continue for a period of fifteen (15) days from the date such payment was due;
- (b) Liens. Tenant shall fail to discharge any lien placed upon the Premises in violation of Paragraph 27 hereof within (20) days after any such lien or encumbrance is filed against the Premises; or
- (c) Other Breach. Tenant shall fail to comply with any term, provision or covenant of this Lease (other than the foregoing in this Paragraph 23), and shall not cure such failure within thirty (30) days after notice; provided, in the event such default does not consist of a failure to pay Rent and cannot reasonably be cured within such thirty (30) day period, an Event of Default shall not be deemed to have occurred so long as Tenant commences an effective cure within said thirty (30) day period and prosecutes such cure diligently to completion.

24. Remedies. Upon the occurrence of any of such Events of Default, Landlord may, at its election and in addition to all other remedies available at law or in equity, terminate this Lease through the delivery of written notice to that effect to Tenant or terminate Tenant's right to possession only, without terminating the Lease.

- (a) Re-Entry Without Termination. Upon any termination of Tenant's right to possession of the Premises without termination of this Lease, Landlord may, at Landlord's option, enter into the Premises, remove Tenant's signs and other evidences of tenancy, and take and hold possession thereof without such entry and possession terminating this Lease or releasing Tenant, in whole or in part, from any obligation, including Tenant's obligation to pay Construction Contribution, its share of Operating Costs and all other sums payable by Tenant hereunder, for the full Lease Term. Landlord may make repairs, alterations and additions in or to the Premises, and redecorate the same to the extent Landlord deems necessary or desirable, in its sole discretion.
- (b) Damages in the Event of Termination. It is acknowledged that the damages that would be incurred by Landlord in connection with the termination of this Lease following a default by Tenant would be difficult to estimate or ascertain. In the event Landlord elects to terminate this Lease, Landlord may, in addition to other remedies available at law or in equity, recover from Tenant, as liquidated damages, an amount equal to the sum of the following: (i) all unpaid Rent that is payable by Tenant hereunder and that accrues as of the effective date of termination; plus (ii) any actual damages which result from the termination of this Lease.
- (c) Entry for Maintenance. Landlord may, at Landlord's option, enter into and upon the Premises if Landlord reasonably determines that Tenant is not acting within a commercially reasonable time to maintain, repair or replace anything for which Tenant is responsible hereunder and correct the same, without being deemed in any manner guilty of trespass, eviction or forcible entry and detainer and without incurring any liability for any damage resulting therefrom, and Tenant agrees to reimburse Landlord, on demand, as additional rent, for any expenses that Landlord may incur in effecting compliance with Tenant's obligations under this Lease.

- (d) Tenant's Property. Any personal property of Tenant remaining in the Premises after the expiration or earlier termination of the Lease or of Tenant's right to possession of the Premises shall be deemed abandoned. Any and all such abandoned property may be handled, removed and stored, as the case may be, by or at the direction of Landlord at the sole risk, cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay to Landlord, upon demand, any and all expenses incurred in such removal and all storage charges against such property so long as the property shall be in Landlord's possession or under Landlord's control. Any such property of Tenant not retaken by Tenant from storage within thirty (30) days after removal from the Premises shall, at Landlord's option, be deemed conveyed by Tenant to Landlord under this Lease as by a bill of sale without further payment or credit by Landlord to Tenant.
- (e) Late Charge. In the event Tenant fails to pay any portion of the Rent payable by Tenant hereunder within fifteen (15) days of the date that such amount is due, Tenant shall pay to Landlord on demand a late charge in an amount equal to five percent (5%) of such installment or other charge that is so overdue in any month, and one and one-half percent (1.5%) each month thereafter until paid in full, to help defray the additional cost to Landlord for processing such late payments. Such late charge shall be additional rent hereunder and the failure to pay such late charge within five (5) days after demand therefore shall be an Event of Default hereunder. The provision for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder and shall not be construed as liquidated damages or as limiting Landlord's remedies in any manner.
- (f) Miscellaneous. Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the remedies herein provided or any other remedies available at law or in equity, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any Rent due to Landlord hereunder or of any damages accruing to the non-breaching party by reason of the violation of any term, provision and/or covenant herein contained. No agreement to accept a surrender by Tenant of its right or possession of the Premises shall be valid unless in writing signed by Landlord. No waiver by either party of any violation or breach of any term, provision and/or covenant herein contained shall be deemed or construed to constitute a waiver of any other violation or breach of any term, provision and/or covenant herein contained. Landlord's acceptance of the payment of rental or other payments hereunder after the occurrence of an Event of Default shall not be construed as a waiver of such default, unless Landlord so notifies Tenant in writing. Forbearance by either party to enforce one or more of the remedies with respect to any default shall not constitute a waiver thereof, or a waiver of any remedy in connection with any subsequent default, unless such waiver is acknowledged in writing. In the event of any litigation to enforce or interpret the terms hereof, the prevailing party shall be entitled to an award of its reasonable attorneys' fees and disbursements.

25. Mortgages/Security Interests. Tenant accepts this Lease subject and subordinate to any mortgage(s) or other security interest in the Premises now or at any time hereafter constituting a lien or charge upon the property or the Premises; provided, however, that if the holder of any such mortgage elects to have Tenant's interest in this Lease superior to any such instrument, then, by notice to Tenant from such holder, this Lease shall be deemed superior to such lien, whether this Lease was executed before or after said mortgage. Tenant shall at any time hereafter on demand execute any instruments, releases or other documents that may be required by any mortgagee for the purpose of subjecting and subordinating this Lease to the lien of any such mortgage or security interest.

26. Landlord's Default. In the event of any default by Landlord, Tenant will give Landlord written notice specifying the default with particularity, and Landlord shall thereupon have thirty (30) days in which to cure any such default; provided, in the event such default cannot reasonably be cured within such thirty (30) day period, an event of default shall not be deemed to have occurred so long as Landlord commences an effective cure within

said thirty (30) day period and prosecutes such cure diligently to completion. All obligations of Landlord hereunder will be construed as covenants, not conditions, it being acknowledged that Tenant's obligation to pay Rent hereunder constitutes an independent covenant.

27. Mechanic's Liens. Tenant shall have no authority, express or limited, to create or place any lien or encumbrance of any kind or nature whatsoever upon, or in any manner to bind, the interest of Landlord or Tenant in the Building, the Property or the Premises, including those who may furnish materials or perform labor for any construction or repairs. Tenant shall pay all sums legally due and payable on account of any labor performed or materials furnished in connection with any work performed on the Premises by Tenant or at Tenant's instance, and Tenant will indemnify Landlord from any and all loss, cost and expense, including reasonable attorneys' fees, based on or arising out of such claims or liens asserted against the Tenant's leasehold estate or against the right, title and interest of the Landlord in the Building, the Property or the Premises. Tenant shall give Landlord immediate written notice of the placing of any such lien or encumbrance against the Building, the Property or the Premises.

28. Personal Property Taxes. Tenant shall be liable for all taxes levied or assessed against personal property, furniture or fixtures owned by Tenant or placed by Tenant on, in or at the Premises, if any. If any such taxes for which Tenant is liable are levied or assessed against Landlord or Landlord's property and if Landlord elects to pay the same, Tenant shall pay to Landlord upon demand such taxes.

29. Notices. All bills, statements, notices or communications, including changes of address of either party, which either party may desire or be required to give to the other shall be deemed sufficiently given or rendered if in writing and either delivered to the other party personally, sent by registered or certified mail, return receipt requested, sent by national air courier service, addressed to either party at the address for each party that is shown on the Data Sheet. The time of rendition thereof or the giving of such notice or communication shall be deemed to be the time when the same is personally delivered to the other party, deposited in the mail, or delivered to the other party by a national air courier service as herein provided. Any notice or the return of any access cards, keys, or otherwise to be given from Tenant to Landlord must be delivered in the manner set forth above.

30. Hazardous Substances. Tenant shall at all times comply with applicable local, state and federal laws, ordinances and regulations relating to Hazardous Substances. "Hazardous Substances" means (i) any oil, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other wastes, materials or pollutants that (A) pose a hazard to the Premises, Building or Property or to persons on or about the Premises, Building or Property or (B) cause the Premises, Building or Property to be in violation of any hazardous materials laws; (ii) asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment that contains dielectric fluid containing polychlorinated biphenyl, or radon gas; (iii) any chemical, material or substance defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "restricted hazardous waste", or "toxic substances", or words of similar import under any applicable local, state or federal law or under the regulations adopted or publications promulgated pursuant thereto, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, et seq.; the Hazardous Materials Transportation Act, as amended, 42 U.S.C. §§ 6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251, et seq.; (iv) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any governmental authority or may or could pose a hazard to the health and safety of the occupants of the Premises, Building or Property or the owners and/or occupants of property adjacent to or surrounding the Property, or any other person or entity coming upon the Property or adjacent property; and (v) any other chemical, material or substance that may or could pose a hazard to the environment. Tenant shall not: (i) use the Premises, Building or Property for the storage of Hazardous Substances except for such activities that are part of the course of tenant's ordinary business (the "Permitted Activities"; provided, such Permitted Activities are conducted in accordance with all applicable laws, orders, regulations and ordinances and have been approved in advance in writing by Landlord; (ii) use the Premises, Building or Property as a landfill or dump; or (iii) install any underground tanks of any type at the Property. Tenant shall at its own expense maintain in effect any and all permits, licenses or other governmental approvals, if any, required for Tenant's use of the Premises. Tenant shall make all disclosures required of Tenant by any laws, and shall comply with all orders concerning Tenant's use of the Premises issued by any governmental authority having jurisdiction over the Premises and take all action required by such governmental authorities to bring the Tenant's activities on the Premises into compliance with all environmental and other laws, rules, regulations and ordinances affecting the Premises. If at

any time Tenant shall become aware, or have reasonable cause to believe, that any Hazardous Substance has been released or has otherwise come to be located on or beneath the Property, Tenant shall, give written notice of that condition to Landlord. Tenant shall be responsible for, and shall indemnify, defend and hold Landlord harmless from and against, all environmental claims, demands, damages and liabilities, including, without limitation, court costs and reasonable attorneys' fees, if any, arising out, or in connection with the generation, storage, disposal or other presence of any Hazardous Substance in, on or about the Premises, Building or Property that occurred during the Lease Term and that was caused or permitted by Tenant. The indemnification provided by this Paragraph shall survive the termination of this Lease.

31. Landlord's Work. The parties agree that at the time Tenant takes possession of the Premises, construction of the Premises is "substantially completed" and therefore suitable for possession by Tenant. Date of delivery of the Premises by Landlord to Tenant shall be defined herein as the "Date of Delivery". The phrase "substantially completed" as used herein means that the Landlord's Work has been completed with the exception of minor items which can be fully completed prior to completion of Tenant's Work without material interference with Tenant's Work. In the event that the construction of the Landlord's Work shall not in fact have been substantially completed, Tenant shall notify Landlord in writing within five (5) business days after the Date of Delivery. Landlord shall have a reasonable time after receipt of such notice of in completion from Tenant in which to take such corrective action as Landlord deems necessary and shall notify Tenant in writing as soon as it deems such corrective action, if any, has been completed and the Landlord's Work substantially completed. In the event there shall be any dispute as to whether Landlord has substantially completed its Landlord's Work, the decision in writing of Landlord's architect shall be conclusive and binding on Landlord and Tenant. Upon delivery of the Premises to the Tenant, then Tenant, by occupying and possessing the same, shall be deemed to have accepted the Premises, acknowledged that Landlord has substantially completed the Landlord's Work, and agreed that Landlord is not then in default of any of its obligations under this Lease, subject to any "punch list" items noted by Tenant in any notice of in completion that is delivered to Landlord in a timely manner and that can be completed by Landlord without materially disrupting Tenant's completion of Tenant's Work.

32. Tenant's Work. Tenant shall, at its sole cost, construct or install fixtures, equipment and improvements in or to the Premises in a first-class manner consistent with Tenant's permitted use. Such improvements, trade fixtures and construction activities shall be defined herein collectively as the "Tenant's Work". In the event structural improvements or modification are contemplated by Tenant, Tenant shall, and at its sole cost, promptly deliver to Landlord copies of plans and specifications for the Tenant's Work that are in a form sufficient to satisfy applicable municipal requirements for the granting of permits for the construction of the Tenant's Work (the "Plans"). The Plans shall be subject to Landlord's approval, and the approval of all local governmental authorities with jurisdiction. Landlord agrees not to unreasonably withhold its approval of said Plans; provided, however, that Landlord shall not be deemed to have acted unreasonably if it withholds its approval of the Plans because, in Landlord's reasonable opinion: the Tenant's Work as shown in the Plans is likely to adversely affect Building systems, the structure of the building or the safety of the Building and/or its occupants; the Tenant's Work as shown on the Plans might impair Landlord's ability to furnish services to Tenant or other occupants; the Tenant's Work would increase the cost of operating the Building; the Tenant's Work would violate any governmental laws, rules or ordinances (or interpretations thereof); the Tenant's Work contains or uses hazardous or toxic materials or substances; the Tenant's Work would adversely affect the appearance of the Building; the Tenant's Work might adversely affect another occupant's premises; or the Tenant's Work is prohibited by any mortgage encumbering the Building. The foregoing reasons, however, shall not be exclusive of the reasons for which Landlord may withhold its consent, whether or not such other reasons are similar or dissimilar to the foregoing. If Landlord notifies Tenant that changes are required to the final Plans submitted by Tenant, Tenant shall promptly submit to Landlord, for its approval, the Plans amended in accordance with the changes so required. The Plans shall also be revised, and the Tenant's Work shall be changed, to incorporate any work required in the Premises by any local governmental field inspector. Landlord's approval of the Plans shall in no way be deemed to be (i) an acceptance or approval of any element therein contained which is in violation of any applicable laws, ordinances, regulations or other governmental requirements, or (ii) an assurance that work done pursuant to the Plans will comply with all applicable laws (or with the interpretations thereof) or satisfy Tenant's objectives and needs. Landlord shall deliver written notice (the "Approval Notice") to Tenant upon Landlord's approval of the Plans. Upon the delivery of the Approval Notice, and provided the Date of Delivery has occurred, Tenant shall proceed, at its sole cost and with due diligence, to complete all aspects of the Tenant's Work. Tenant shall, at its expense, obtain all required building permits for the conduct of the Tenant's Work and, except where specifically designated in the Plans, shall use only new or like-

new, first-class materials in the Tenant's Work. All Tenant's Work shall be done in a good and workmanlike manner and in accordance with all applicable statutes, laws, codes and regulations. Tenant and Tenant's contractors shall make all efforts and take all steps reasonably appropriate to assure that all construction activities do not unreasonably interfere with the operation of the Building and the ability of other occupants of the Building to conduct business in a routine manner. Tenant shall have no authority to materially deviate from the approved Plans in the performance of the Tenant's Work, except as authorized by Landlord in writing. Tenant shall provide notice to Landlord of the date of the occurrence of the substantial completion of the construction of the entirety of Tenant's Work, which notice shall be accompanied by a certificate from Tenant's general contractor (the "Completion Certificate") attesting to the occurrence of such substantial completion and setting forth an itemized statement of the nature and cost of all labor and materials used in the completion of the Tenant's Work, a copy of a full and final lien waiver from Tenant's general contractor and a copy of the certificate of occupancy issued by the governing municipality following its inspection of such Tenant's Work. Upon receipt of said notice, Landlord shall inspect the Tenant's Work and note any deficiencies or unfinished items which, if so noted, Tenant shall complete with due diligence.

33. Miscellaneous.

- (a) Interpretation. Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. This Lease is intended to be construed in accordance with the law of the State in which the Property is situated.
- (b) Successors and Assigns. The terms, provisions and covenants and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon, the parties hereto and upon their respective heirs, legal representatives, successors and permitted assigns, except as otherwise herein expressly provided.
- (c) Captions. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope of the intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.
- (d) Estoppel Certificate. Each party agrees from time to time within ten (10) days after its receipt of a written request therefore from the other party, to deliver to the requesting party, or such party's designee, an estoppel certificate concerning the terms of the Lease and the status of the performance of each party's obligations hereunder that is in a form reasonably designated by the requesting party.
- (e) Amendments. This Lease constitutes the entire agreement of the parties with respect to its subject matter and may not be altered, changed or amended except by an instrument in writing signed by both parties hereto.
- (f) Survival. All obligations of Tenant hereunder not fully performed as of the expiration or earlier termination of the Lease Term shall survive the expiration or earlier termination of the Lease Term, including, without limitation, all payment obligations with respect to Operating Costs and all obligations concerning the condition of the Premises.
- (g) Joint and Several. If there be more than one individual or entity defined herein as "Tenant," the obligations hereunder imposed upon Tenant shall be joint and several.
- (h) Severability. If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws effective during the Lease Term, then, and in that event, it is the intention of the parties hereto that the remainder of this Lease shall be not affected thereby, and it is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part


of this Lease a clause or provision as similar in terms of such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

- (i) Interpretation. If this Lease is ever construed by a court of law, such court shall not construe this Lease or any provision hereof against any party as drafter.

THIS LEASE AGREEMENT is executed and delivered as of the day and year first above written.

TENANT:

City of Redwood Falls

By: 

Corey Theis
Its: Mayor

By: 

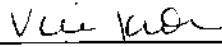
Keith Muetzel
Its: Administrator

LANDLORD:

County of Redwood

By: 

Sharon Hollatz
Its: Board Chair

By: 

Vicki Knobloch
Its: Administrator

Exhibit "A"

Designation of Building and Premises

Parcel ID: 88-729-1190

Lot 1 Block 1

Redwood County LEC Addition

Exhibit "B"

Legal Description/Depiction of Common Area

CITY OF REDWOOD FALLS

Keith T. Muetzel, City Administrator

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Meeting Date: November 7, 2014

AGENDA RECOMMENDATION

Agenda Item: Law Enforcement Center Lease Agreement

Recommendation/Action Requested: Staff recommends approval of the lease agreement.

Summary/Overview: On February 5, 2013, the Redwood Falls City Council took action to approve a lease formula for the proposed law enforcement center. The key points of the proposed lease formula included:

1. The initial term of the lease is for fifteen (15) years and the lease can be extended for two (2) additional fifteen (15) year terms.
2. The total annual lease payment was projected at \$51,200 and includes all operating costs and dispatch services.
3. In addition to the annual lease payment, the City will pay a construction contribution estimated at \$32,406 during each of the first fifteen (15) years of the lease. The construction contribution expires after year fifteen; however, the annual lease payment will remain in effect for as long as we occupy the building.
4. The City is also being asked to contribute an additional \$609 per year to cover additional utility costs and \$4,706 per year in interest to finance the City's share of the construction improvements.

Thus, based on the information provided by Redwood County, the total annual payment was estimated to equal \$89,921. The County requested our approval of the lease formula with the understanding that the final numbers could change as the final design of the building was still being finalized.

Now, the building project is complete and the County is requesting approval of the final lease agreement. The key points of the final lease agreement are as follows:

1. Lease term – No change from above.
2. The total annual lease payment of \$51,200 which includes all operating costs and dispatch services – No change from above.

3. In addition to the annual lease payment, the City will pay a \$33,725 construction contribution during each of the first fifteen (15) years of the lease. This is a cost increase of \$1,319 over the original estimate. This final cost is based on the project's actual construction cost and space allocation.
4. The City will contribute \$609 per year to cover additional utility costs and \$4,706 per year in interest to finance the City's share of the construction improvements – No change from above.

Based on the final cost and scope of the project the total lease payment is \$90,240.00 per year which is \$1,319 more per year than the original estimate.

Attachment: Lease