



# Winona City Council Agenda

Tuesday, January 21, 2020

6:30 P.M., Meeting No. 2

City Council Chambers – City Hall

3<sup>rd</sup> Floor - 207 Lafayette Street

**Mayor Mark Peterson**

**1<sup>st</sup> Ward Al Thurley**

**2<sup>nd</sup> Ward Eileen Moeller**

**3<sup>rd</sup> Ward Pamela Eyden**

**4<sup>th</sup> Ward George Borzyskowski**

**At-Large Michelle Alexander**

**At-Large Paul Schollmeier**

<b>1. Call to Order – Mayor &amp; City Manager’s Comments – Roll Call</b>	
<b>2. Required Public Hearings</b>	
<b>3. Petitions, Requests, Communications</b>	
<b>City Clerk</b>	1. Sign and Banner Requests
<b>Engineering</b>	2. Request Vacation of the Alley on Block 37 of Plumber’s Addition
<b>4. Unfinished Business</b>	
<b>5. New Business</b>	
<b>City Clerk</b>	1. Renew Safe Ride Agreement
<b>Finance</b>	2. Renewal: Property and Liability Insurance for 2020 (excluding Workers’ Compensation)
<b>Finance</b>	3. Renewal for 2020 - Workers’ Compensation and Accident Plan for City Volunteers
<b>Parks &amp; Recreation</b>	4. Park Maintenance Budget Transfer
<b>City Manager</b>	5. 2020 Budget Amendment – City of Winona Website
<b>City Manager</b>	6. Drug Free Workplace & Non-DOT Drug and Alcohol Testing Policy, and DOT Drug and Alcohol Testing Policy
<b>Engineering</b>	7. Huff Street-TH61 Traffic Signal and Pedestrian Facility Improvements Certification of Completion and Final Estimate
<b>6. Reports of Committees</b>	
<b>7. Council Concerns</b>	
<b>City Clerk</b>	1. Council Concerns
<b>8. Consent Agenda</b>	
<b>City Clerk</b>	1. Approval of Minutes – January 6, 2020
<b>City Clerk</b>	2. Claim against the City by Nathan Woodworth
<b>City Clerk</b>	3. Claim against the City by Clara Marcum
<b>9. Adjournment</b>	

# REQUEST FOR COUNCIL ACTION

<b>Agenda Section:</b> Petitions, Requests, Communications	<b>Originating Department:</b>	<b>Date:</b>
No: 3	City Clerk	01/21/20

**Item: Sign and Banner Requests**

No. 3.1

## SUMMARY OF REQUESTED ACTION:

The schedule below is for signs and banners to be posted in January and February. Each of these applicants has paid the City fee of \$50 for a banner over Mankato Avenue, or \$25 for a park sign.

If Council concurs, a motion to approve the list would be in order.

From:	To:	Event	Mankato Ave. Banner	Lake Park	Central Park
1/27/2020	2/10/2020	Frozen River Film Fest	x	x	
3/16/2020	3/30/2020	St. Mary's University Dance Fest	x		
3/16/2020	3/30/2020	DAC Auction & Casino Night		x	

<b>Department Approval:</b> 	<b>City Manager Approval:</b> 
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# REQUEST FOR COUNCIL ACTION

<i>Agenda Section:</i> <b>Petitions, Requests, Communications</b>	<i>Originating Department:</i> <b>Engineering</b>	<i>Date:</i> <b>1/21/20</b>
<i>No:</i> <b>3</b>		

*Item:* **Request Vacation of the Alley on Block 37 of Plumber's Addition**

*No.* **3.2**

## SUMMARY OF REQUESTED ACTION:

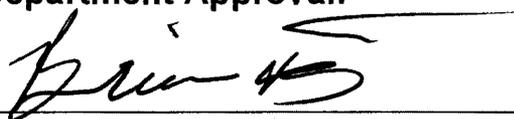
This item had a public hearing on December 2, 2019. It was later discovered that this alley was shown on two different plats. Council vacated the alley on Block 37 of the Original Plat, but there is a section of this alley on Block 37 of Plumber's addition. This portion of the alley would need to go to public hearing also to vacate it as was intended on December 2, 2019.

Section 25.26 of the City Code requires that a public hearing be held to give affected property owners a chance to be heard. Council is requested to set the public hearing for Monday, February 3, 2020 at 6:30 pm in the Council Chambers.

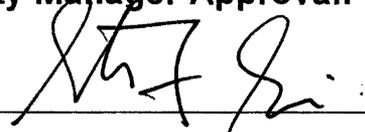
Before the street right of way can be vacated, Section 25.26(c) of the City Code requires that administration do an investigation and this report will be provided prior to the public hearing on February 3, 2020.

If Council concurs, a motion to set the public hearing would be in order.

**Department Approval:**



**City Manager Approval:**



# From the office of the City Engineer

**Date:** January 21st, 2020

**To:** Monica Hennessy Mohan, City Clerk

**From:** Brian DeFrang, City Engineer

**Re:** Request Vacation of the Alley in Block 37 of Plumber's Addition

Nisbit-Beier Subdivion has requested vacation of the alley in Block 37 of Plumber's Addition. Before the street right of way can be vacated, Section 25.26(c) of the City Code requires that administration do an investigation and address three questions.

- 1) WILL THE VACATION WORK A HARDSHIP ON AFFECTED PROPERTY OWNERS?

No. This would not impede other properties or use of these utilities.

- 2) WILL THE VACATION DEPRIVE THE AFFECTED PROPERTY OWNERS OF A SUBSTANTIAL RIGHT APPURTENANT TO THEIR PROPERTY?

This vacation will not deprive any adjacent property owners of a substantial right appurtenant to their property.

- 3) WILL THE VACATION BE IN THE BEST INTERESTS OF THE PUBLIC?

This area is not needed for city purposes. No easements need to be maintained.

# REQUEST FOR COUNCIL ACTION

Agenda Section: **New Business**

Originating Department:

Date

No: **5**

**City Clerk**

**01/21/20**

Item: **Renew Safe Ride Agreement**

No. **5.1**

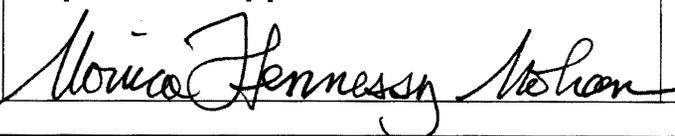
## SUMMARY OF REQUESTED ACTION:

The Safe Ride program began in the fall of 2002 as a joint venture between the City of Winona, Winona State University (WSU), and Saint Mary's University of Minnesota (SMU) to provide late night bus service between the campuses and downtown Winona on the weekends.

The agreement for the Spring semester of 2020 continues the same level of service as is currently being provided. The Safe Ride route goes from downtown Winona to both of the Winona State University campuses and the East Lake Apartments, and to Saint Mary's University. The buses run on Friday and Saturday nights from 7:00 p.m. to 2:00 a.m.

The proposed budget and cost sharing are shown on Attachment A. If the Council concurs, a motion to approve the attached agreement and direct staff to execute the agreement would be in order.

Department Approval:



City Manager Approval:



**AGREEMENT BETWEEN THE CITY OF WINONA, MINNESOTA,  
WINONA STATE UNIVERSITY, AND SAINT MARY'S UNIVERSITY OF MINNESOTA  
FOR THE PROVISION OF THE "SAFE RIDE PROGRAM"  
Spring Semester 2020 Services**

This Agreement ("Agreement") is made and entered into by and between the City of Winona, a municipal corporation under the laws of the State of Minnesota, hereinafter referred to as "the City;" Winona State University, hereinafter referred to as "WSU;" and Saint Mary's University of Minnesota, hereinafter referred to as "SMU;" (collectively the "parties").

**WITNESSETH:**

WHEREAS, the parties recognize the need for late night public transit service in the City of Winona to provide safe transportation between both universities and downtown Winona; and

WHEREAS, the City has a transit service that the parties desire to use for such late night transportation; and

WHEREAS, the parties hereto are empowered to enter into this Agreement pursuant to Minnesota Statutes, Chapter 471.59, Subd. 10.

NOW, THEREFORE, for the consideration of the mutual promises and covenants herein stipulated to be performed by the parties to this Agreement, it is agreed as follows:

1. Purpose. The parties recognize the need for late night public transit service in the City of Winona to provide safe transportation between both universities and downtown Winona.
2. Scope of Service. The City will provide Winona Transit Service buses and contracted drivers to provide public transportation on Friday and Saturday nights. On Friday and Saturday, the service will operate one bus from approximately 7:00 p.m. to 1:57 a.m. each night, and a second bus will run from 9:25 p.m. until 1:30 a.m. each night. The dates of service will be Friday, January 17, 2020, through Saturday, May 2, 2020. No service shall be provided on the following dates in 2020:

March 6 – 7 (Spring Break), and  
April 10-11 (Easter weekend).

Reduced service (1 bus) will run on the following dates: February 28-29: service to WSU only; and March 13-14: service to SMU only.

3. **Term.** The term of this Agreement shall be January 17, 2020 through May 3, 2020. If the parties wish to continue the services after May 3, 2020, a new contract will be executed.
4. **Cancellation.** Any party hereto may cancel this Agreement upon Thirty (30) days written notice to the other parties.
5. **Insurance.** The City will provide insurance within the City limits for bodily injury liability and property damage liability and related coverages, including physical damage insurance on the buses.
6. **Buses and Drivers.** The contractor who provides public transit services for the Winona Transit Service will provide the bus drivers, as is provided for in the public transit agreement between the City and the bus driver contractor who is currently Three Rivers Community Action, Inc. The buses will be the property of the City. Neither SMU nor WSU shall be liable for injuries to persons or damage to property associated with the public transportation outlined in Paragraphs 1 and 2.
7. **Liability.** Each party agrees that it will be responsible for its own acts and the results thereof, to the extent authorized by law and shall not be responsible for the acts of the other parties and the results thereof. The liability of WSU shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes Sections 3.732 and 3.736 et seq. and other applicable law. For liability purposes, bus drivers and all other transit personnel are contracted from Three Rivers Community Action, Inc. and shall not be deemed employees of the City. For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. c. 466), under no circumstances shall the City be required to pay on behalf of itself and other parties, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for some or all of the parties may not be added together to determine the maximum amount of liability for any party.
8. **License.** The City holds the State of Minnesota Public Service Commission License and shall make all necessary reports and applications in connection with the State of Minnesota Public Service Commission and Department of Transportation.
9. **Bus Routes.** The City retains authority to establish and determine routes and schedules of service for public transportation in the transit area. The City reserves the right to make necessary changes to conduct a more efficient route.
10. **Costs and Payment.** The City, WSU, and SMU agree to be severally liable for their portion of the costs of the transit service program contained herein. Nothing in this Agreement shall be implicitly or expressly construed as creating or imposing joint liability for the costs of the program. Attachment A, which is attached hereto and incorporated herein by reference, shows the proposed budget for the program. The City shall bill on an hourly basis, plus actual fuel charges. The City shall provide WSU and SMU 30 days' written notice and documentation demonstrating necessity

regarding any changes in the cost per hour. The City agrees that it shall not charge WSU and SMU any fuel surcharge fees greater than the actual cost of the fuel incurred by the City. Invoices submitted by the City shall show the actual fuel costs incurred by the City. The estimated 2020 costs for the respective parties are as follows:

- (a) The estimated cost for Winona State University is \$4,514.15;
- (b) The estimated cost to St. Mary's University is \$4,514.15;
- (c) The estimated cost to the City of Winona is \$3,200.00.

The actual costs invoiced to the parties by the City may differ from the foregoing. The City will bill WSU and SMU, respectively, on a quarterly basis; with approximately one-quarter of each university's share of the costs payable to the City on the following dates: April 1 and June 1, 2020. WSU and SMU shall make payment, respectively, to the City within 30 days of the City's invoice date.

11. Reduction in Transit Funds; Termination. In the event that the City receives a reduction in the amount of State transit grant funds, this Agreement may be terminated by any party upon giving thirty (30) days written notice to the other parties; or in the alternative, the parties may renegotiate the terms of this Agreement.
12. Records. The City will maintain records to determine usage of the Safe Ride Program. WSU and SMU may inspect these files maintained in the office of the City Clerk during regular business hours.
13. General Terms.
  - a. **Voluntary and Knowing Action.** The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
  - b. **Authorized Signatories.** The parties each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.
  - c. **No Partnership, Joint Venture, or Fiduciary Relationship.** Nothing contained in this Agreement shall be interpreted as creating a partnership, joint venture, or relationship of principal and agent between the parties.
  - d. **Governing Law.** This Agreement shall be deemed to have been made and

accepted in Winona County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of this Agreement without regard to its choice of law or conflict of laws principles.

- e. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
- f. **Entire Agreement.** These terms and conditions constitute the entire agreement between the parties regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Agreement.
- g. **Headings and Captions.** Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.
- h. **Assignment.** The parties shall neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of all parties hereto.
- i. **Amendments.** Any amendments to this Agreement shall be in writing, and shall be executed by the same parties who executed the original Agreement.
- j. **Force Majeure.** The Parties shall each be excused from performance under this Agreement while and to the extent that either of them are unable to perform, for any cause beyond its reasonable control. Such causes shall include, but not be restricted to fire, storm, flood, earthquake, explosion, war, total or partial failure of transportation or delivery facilities, raw materials or supplies, interruption of utilities or power, and any act of government or military authority. In the event either party is rendered unable wholly or in part by force majeure to carry out its obligations under this Agreement then the party affected by force majeure shall give written notice with explanation to the other party immediately.
- k. **Compliance with Laws.** The parties shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement or to the facilities, programs and staff for which each party is responsible.
- l. **Dispute Resolution.** Any dispute concerning any provision of this Agreement, other than a default, shall be resolved as follows: The party which asserts a dispute shall first give notice thereof to the other party and specify the nature of the dispute and shall meet with such other party, within 30 days of the event

giving rise to the dispute. Such notice shall set forth all reasons supporting the basis of the dispute. Within 30 days following the date of the notice, a meeting between the Parties shall be held to attempt in good faith to negotiate a resolution of the dispute or controversy prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall first be submitted to mediation utilizing the Minnesota District Court Rule 114 Roster or another mediator mutually agreed upon by the Parties.

- m. **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.
- n. **Data Practices.** The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
- o. **No Waiver.** Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that Party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving Party.
- p. **Survivability.** All covenants, indemnities, guarantees, releases, representations and warranties by any Party or Parties, and any undischarged obligations of Winona or State arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration.

*[Remainder of page left intentionally blank]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on the respective dates set forth below intending to be bound thereby.

**Winona State University**

By: \_\_\_\_\_  
Scott Ellinghuysen  
Its: Vice President of Finance

Date: \_\_\_\_\_

**Saint Mary's University of Minnesota**

By: Dr. Tim Gossen  
Dr. Tim Gossen  
Its: Vice President for Student Affairs and Student Life

Date: 1-10-2020

**City of Winona**

By: \_\_\_\_\_  
Stephen T. Sarvi  
Its: City Manager

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Monica Hennessy Mohan  
Its: City Clerk

Date: \_\_\_\_\_

**Attachment A**  
**2020 Safe Ride Budget**  
**Option 3 - Spring Semester Only**

<b>Projected costs:</b>	<b>Fri/Sat</b>
<b>Spring Semester</b>	
Hours of service	7:00 -1:57
Number buses	2
Hours per night (total)	
Fri	11.00
Sat	11.00
	<hr/>
Total hours per week	22.00
Weeks of full service	12
2 weeks with one bus per night	30
Total hours	294.00
Cost per hour- Spring	\$ 34.45
Hourly total- Spring	\$ 10,128.30
Estimated fuel cost	\$ 2,100.00
Total Cost	<u>\$ 12,228.30</u>

<b>Cost sharing</b>		
City of Winona	\$ 3,200.00	26.2%
WSU	\$ 4,514.15	36.9%
SMU	\$ 4,514.15	36.9%
Total	<u>\$ 12,228.30</u>	100.0%

# REQUEST FOR COUNCIL ACTION

<i>Agenda Section:</i> <b>New Business</b>	<i>Originating Department:</i>	<i>Date</i>
<b>No: 5.</b>	<b>Finance</b>	<b>1-21-20</b>

**Item: Renewal: Property and Liability Insurance for 2020  
(excluding Workers' Compensation)**  
**No. 5.2**

## SUMMARY OF REQUESTED ACTION:

Listed below are the premiums for 2020 (compared to 2019) for the City's Property and Liability Insurance, excluding workers' compensation. (This program includes the City and the Port Authority.)

### Recommendation-

Premium Summary:	2019	2020	
→ Property	\$ 56,340	\$ 64,444	
→ Mobile Property	5,202	5,121	
→ Fine Arts	-	-	(Included in Property)
→ Municipal Liability	92,817	96,567	
→ Automobile Liability	20,937	19,544	
→ Automobile Physical Damage	28,077	27,638	
→ Boiler and Machinery	7,177	7,533	
→ Airport Liability	-	-	(Included in Muni. Liability)
→ Bond	1,316	1,186	
→ MN Petrofund Supplemental Reimb.	-	-	(Included in Muni. Liability)
<b>TOTAL</b>	<b>\$211,866</b>	<b>\$222,033</b>	

If the Mayor and Council concur with the recommendation for 2020, then the following resolution should be adopted.

### RESOLUTION

Be it resolved by the City Council of the City of Winona, Minnesota, that it approves of the renewal, for 2020, of the City's property and liability insurance program (excluding workers' compensation) as listed above, effective January 1, 2020 and the City waives the monetary limits on tort liability established by MN Statutes 466.04 to the extent of the limits of the liability coverage obtained from the League of MN Cities Insurance Trust (LMCIT).

Please note: If the Council would like to change an option to the program, they may do so as part of the Resolution.

(Attachments)

**Department Approval:**

*Mary D. Swinkler*

**City Manager Approval:**

*John J. [Signature]*

## Renewal for 2020

### PROPERTY

	<u>2019</u>	<u>2020</u>
<b><u>Real &amp; Personal Property</u></b>	\$ 95,697,223	\$ 100,439,937
Rates/\$1,000	.589	.642
Deductible	50,000	50,000
Premium	<u>\$ 56,340</u>	<u>\$ 64,444</u>

### Property Sublimits

Valuable Papers – Per Location	\$ 500,000	\$ 500,000
Fine Arts – Per Occurrence	Included in Property above	Included in Property above
Computer Equipment Data & Media - Per Occurrence	1,000,000	1,000,000
Loss of Revenue, Extra Expense - Per Occurrence	5,000,000	5,000,000
Debris Removal / No Physical Damage to covered property - Per Occurrence	50,000	50,000
Debris Removal / Physical Damage to covered property - Per Occurrence	25% of the loss	25% of the loss

- \* \$50,000 deductible/occurrence is subject to a \$200,000 aggregate deductible for 12 months;  
\$1,000 deductible for property losses thereafter.

## Renewal for 2020

### INLAND MARINE

	<u>2019</u>	<u>2020</u>
Mobile Equip. (Total Equip Limit )	\$ 4,634,060	\$ 4,502,124
Rates/\$1,000	1.123	1.137
Replacement Cost		
Misc. Equip.	Values less than \$250,000 - blanket property limit applies	
Inland Marine Deductible	50,000	50,000
Premium	\$ 5,202	\$ 5,121

\* \$50,000 deductible/occurrence subject to a \$200,000 aggregate deductible for 12 months;  
\$1,000 deductible for property losses thereafter.

## Renewal for 2020

### MUNICIPAL LIABILITY

	<u>2019</u>	<u>2020</u>
Liability	\$ 2,000,000	\$ 2,000,000
Deductible	50,000	50,000
Aggregate Deductible	200,000	200,000
Errors & Omissions Coverage	Included	Included
Premium	<u>\$ 92,817</u>	<u>\$ 96,567</u>

(Liability Coverage includes City of Winona & Port Authority)

In addition to the overall coverage limit of \$2,000,000 per occurrence, there are also annual aggregate limits – limits on the total amount of coverage for the year, regardless of the number of claims – for certain specific risks.

Aggregate limits apply to the following:

	<u>2019</u>	<u>2020</u>
Products/Completed Operations	\$3,000,000 Annually	\$3,000,000 Annually
Failure to Supply Utilities	\$3,000,000 Annually	\$3,000,000 Annually
Electromagnetic Fields	\$3,000,000 Annually	\$3,000,000 Annually
Limited Contamination	\$3,000,000 Annually	\$3,000,000 Annually
Mold	\$3,000,000 Annually	\$3,000,000 Annually
Land Use & Special Risk Litigation	\$1,000,000 Annually	\$1,000,000 Annually
Employers Liability (work comp)	\$2,000,000 Annually	\$2,000,000 Annually
Data Security Breach	\$3,000,000 Annually	\$2,000,000 Annually

## Renewal for 2020

### AUTOMOBILE

	<u>2019</u>	<u>2020</u>
Liability	\$ 2,000,000	\$ 2,000,000
Deductible	50,000	50,000
Rented/Leased Auto	Included	Included
Volunteer Liability	Included	Included
Uninsured & Underinsured Motorist	200,000*	200,000*
Premium	<u>\$ 20,937</u>	<u>\$ 19,544</u>
Auto Physical Damage		
Deductible	5,000	5,000
Premium	<u>\$ 28,077</u>	<u>\$ 27,638</u>

\* Automatic limit given by LMCIT. There is no longer an option to increase the limit.

## Renewal for 2020

### BOILER & MACHINERY

	<u>2019</u>	<u>2020</u>
Limit of Insurance	\$ 95,697,223	\$ 100,439,937
(Rate based on total property values)		
Comprehensive Protection	Blanket All Locations	Blanket All Locations
Deductible	50,000	50,000
Premium	\$ <u>7,177</u>	\$ <u>7,533</u>

Higher deductible option is not available for Boiler & Machinery coverage.

## Renewal for 2020

### AIRPORT LIABILITY

	<u>2019</u>	<u>2020</u>
Each Occurrence	\$ 2,000,000	\$ 2,000,000
Aggregate	3,000,000	3,000,000
Deductible	50,000	50,000
Hangarkeepers Liability		
Each Aircraft	Unlimited	Unlimited
Each Occurrence		
Deductible	50,000	50,000
Premium	Included in Municipal Liability	Included in Municipal Liability

## Renewal for 2020

### BOND

	<u>2019</u>	<u>2020</u>
Employee Dishonesty & Faithful Performance (Coverage for the City & the Port Authority)	\$ 1,000,000	\$ 1,000,000
Deductible	75,000	75,000
Premium	<u>\$ 1,316</u>	<u>\$ 1,186</u>

### MINNESOTA PETROFUND SUPPLEMENTAL REIMBURSEMENT

Maximum Limit: Now included in the Municipal Liability Program.  
No specific charge

Premium Included

## Renewal for 2020

### OPEN MEETING LAW

	<u>2019</u>	<u>2020</u>
Liability	\$ 50,000	\$ 50,000
Premium	No premium – included in Municipal Liability	

### Open Meeting Law Defense Reimbursement

City council members may be sued for alleged violations of Minnesota's Open Meeting Law. The cost of defending these suits for individual council members can often be fairly expensive. To avoid this uncovered exposure to the council member or the city, LMCIT has made available Open Meeting Law defense cost reimbursement coverage.

The coverage will reimburse City officials for 100% of the legal costs they incur to defend themselves if they are charged with violating the Open Meeting Law. Coverage is limited to \$50,000. This is the most LMCIT will reimburse any one City official for defense costs for open meeting law lawsuits or the number of actual violations.

There are two major kinds of costs for which this coverage would not reimburse the City official 1) Any fine or penalty for violating the Open Meeting Law; 2) Any award that orders the City official to pay for the opposing party's attorney fees.

-8-

## Renewal for 2020

### PREMIUM SUMMARY

	<u>2019</u>		<u>2020</u>
Property	\$ 56,340	\$	64,444
Mobile Property	5,202		5,121
Fine Arts	Included		Included
Municipal Liability	92,817		96,567
Automobile Liability	20,937		19,544
Automobile Physical Damage	28,077		27,638
Boiler & Machinery	7,177		7,533
Airport Liability	Included		Included
Bond	1,316		1,186
Minnesota Petrofund Supplemental Reimbursement	Included		Included
Open Meeting Law	Included		Included
<b>Total Premium</b>	<b>\$ <u>211,866</u></b>		<b>\$ <u>222,033</u></b>

# REQUEST FOR COUNCIL ACTION

<i>Agenda Section:</i> <b>New Business</b>	<i>Originating Department:</i>	<i>Date</i>
<i>No:</i> <b>5.</b>	<b>Finance</b>	<b>1-21-20</b>

*Item:* **Renewal for 2020 - Workers' Compensation and Accident Plan for City Volunteers**  
*No.* **5.3**

## SUMMARY OF REQUESTED ACTION:

### 1. RENEW – WORKERS' COMPENSATION

This is a request to select a premium option, for 2020, for the City's Workers' Compensation Plan. (This is a group self-insured plan through the League of Minnesota Cities Insurance Trust.) The premium options available, to the City of Winona, are reviewed annually. The proposed 2020 premium is dependent on the City's next year budgeted payroll, the City's claims experience from 2018, 2017 and 2016 and the past experience of the other League cities included in the total workers' compensation pool.

➤ **The recommendation, from City staff for 2020, is listed below:**

- **Rated Premium Option** (called: Retro Rated Minimum Factor of .164%-2.000%)
  - \$106,435-\$1,297,990 (Minimum to Maximum premium, which means the premium cost is the minimum amount plus the City's claims up to the maximum.)
  - The Retro Rated Premium option has been beneficial to the City over the past years

Please note, if the Council would prefer to look at other options, the guaranteed premium (called: Regular Premium Option) would cost \$573,895.

**If the Council concurs with the Staff recommendation to select the Rated Premium Option, at .164%-2.000%, then the following resolution should be adopted:**

### RESOLUTION

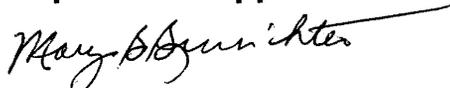
Be it resolved by the City Council of the City of Winona, Minnesota, that it approves of the renewal of the premium option called Retro-Rated Minimum Factor (at .164%-2.000%) through the League Insurance Trust for the year 2020, effective January 1. (This resolution would include coverage for elected officials.)

### 2. ACCIDENT PLAN FOR VOLUNTEERS (NOW INCLUDED-WORK COMP PROGRAM)

The 2020 premium is included in the Workers Compensation Program with no additional charge (The accident plan was added, for City volunteers, in 1998. The approximate cost is \$1,100.)

(Attachment)

**Department Approval:**



**City Manager Approval:**



## Renewal for 2020

### MINNESOTA WORKER'S COMPENSATION

1/1/2020 – 1/1/2021

<u>Code</u>	<u>Description</u>	<u>2019-2020 Expiring</u>			<u>2020-2021 Renewal</u>		
		<u>Payroll</u>	<u>Rate</u>	<u>Premium</u>	<u>Payroll</u>	<u>Rate</u>	<u>Premium</u>
5192	Parking Meter Readers	51,255	10.05	\$5151	52,748	10.05	\$5,776
5506	Street Construction	644,707	9.14	\$58,926	680,957	9.96	\$67,823
7403	Airport Operations	62,247	5.38	\$3,349	66,250	5.87	\$3,889
7520	Waterworks	546,946	3.85	\$21,057	577,628	4.19	\$24,203
7580	Sewage Disposal Plant	706,927	4.61	\$32,589	731,736	5.02	\$36,733
7716	Firefighter (not vol) non-smoking	1,878,508	7.18	\$134,877	2,049,099	7.83	\$160,444
7720	Police	3,218,670	5.62	\$180,889	3,362,311	6.12	\$205,773
7722	Police Reserve	26,784	2.06	\$552	30,284	2.25	681
8227	City Shop & Yard	250,102	4.30	\$10,754	268,652	4.69	\$12,600
8810	Clerical Office NOC	742,044	.72	\$5,343	771,908	.78	\$6,021
8831	Animal Control	51,882	2.71	\$1,406	54,748	2.86	\$1,566
9015	Buildings - Operation by Owner	114,114	6.82	\$7,783	119,663	7.43	\$8,891
9063	Comm. Centers - All Employees	344,911	2.51	\$8,657	371,209	2.74	\$10,171
9102	Parks	1,336,123	5.54	\$74,021	1,408,189	6.04	\$85,055
9156	City Band	15,730	5.51	\$867	15,805	6.01	\$950
9410	Municipal Employees	2,351,483	.62	\$14,579	2,629,323	.67	\$17,616
9411	Elected or Appointed Officials	18,200	.49	\$89	18,200	.54	\$98
9101	Library Maintenance	45,036	5.80	\$2,612	48,123	6.32	\$3,041
8810	Library - Professional & Clerical	603,592	.72	\$4,346	540,974	.78	\$4,220
				\$567,842			\$655,551
	Experience Mod		1.05	\$28,392		.99	(\$6,556)
				\$596,234			\$648,995
	Premium Discount			(\$68,558)			(\$75,100)
				\$527,676			\$573,895

# REQUEST FOR COUNCIL ACTION

Agenda Section: **New Business**

Originating Department:

Date

No: **5**

**Parks and Recreation**

**01/21/20**

Item: **Park Maintenance Budget Transfer**

No. **5.4**

## SUMMARY OF REQUESTED ACTION:

As we enter the 2020 budget year, staff is coming forward with a budget adjustment request. This request does not impact the tax levy for 2020, it is an internal transfer request.

Staff has heard from the public, staff, and Council the need to address and upgrade the services that make up our City website. Staff has met with several vendors and received a proposal to upgrade the website. That request will come forward in a subsequent agenda item. However, the funding source for that upgrade, if approved by Council, would require a transfer of funds.

Staff is recommending the Climbing Boulder Project that was funded in the general fund, Park Maintenance, be funded by the Facilities Fund. The transfer of funding from the Facilities Fund would allow \$65,000 within the General Fund to be used for the website upgrade and other park projects and events. The Facilities Fund transfer could also be worded as an up to amount of \$65,000 which could have a savings impact on the Facilities Fund if the project should be less than \$65,000.

The funding request for the website is \$25,000. This would leave \$40,000 to be used for other park projects and events. As discussed in the 2020 budget meetings, we did remove all funding for Levee Park Events and some reduction in part-time staffing. We would focus the remaining funding within these areas as well as potentially increasing funding for engagement activities for the arts and sustainability strategic plans.

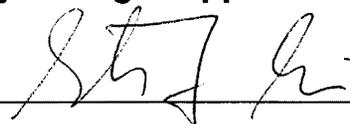
Staff is recommending the transfer of funding from the facilities fund for the Climbing Boulder Project. If approved the transfer of funding for the website and other park projects will be completed by Administration, through our normal budget process.

If Council concurs a motion to approve the transfer of an up to amount of \$65,000 from the Facilities Fund into the Park Maintenance Fund for the Climbing Boulder Project.

Department Approval:



City Manager Approval:



# REQUEST FOR COUNCIL ACTION

<i>Agenda Section:</i> <b>New Business</b>	<i>Originating Department:</i>	<i>Date</i>
<b>No: 5</b>	<b>City Manager</b>	<b>01/21/20</b>

*Item:* **2020 Budget Amendment – City of Winona Website**

**No. 5.5**

## SUMMARY OF REQUESTED ACTION:

The City of Winona website has had updates in recent years but has not had a full redesign since 2012. A staff technology committee was created in 2019 to evaluate the key components of an effective website and identified the following criteria necessary to make information on the website more assessable to the public.

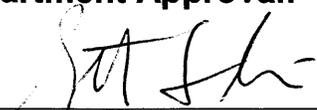
- Compatibility with mobile devices
- Compatibility with ADA accessibility standards
- Fresh ideas to present content that is user friendly for the public
- Ease of use by City staff to update web content, training, and ongoing customer support
- Commitment from the vendor to monitor our website and suggest modifications regularly
- Overall web page template options are modern and visually appealing
- Annual fees and upgrade costs

The committee met with three vendors on multiple occasions to ask questions and view demonstrations of their respective product. The committee unanimously decided that CivicPlus from Kansas City, Kansas could meet or exceed the key considerations while also allowing for enhancements in the future. CivicPlus specializes in local government websites.

Attached are the Scope of Work Agreement and the Master Service Agreement to begin work with CivicPlus. The first year costs include a one-time fee of \$18,500 for the transition and host establishment of the website, and the annual service fee of \$4,000 for a total of \$22,500. The annual service fee will also be \$4,000 for year 2, and will then increase to \$4,200 in years three and four. It is anticipated that the transfer of content to the new vendor will take six to eight months.

In addition to the first year cost of \$22,500 the committee suggested a one-time buffer an additional \$2,500 for unexpected costs, enhancements, or modifications during the transition process. Should Council Concur, a motion to approve up to \$25,000 for the City website redesign in 2020 and approve the attached agreements with CivicPlus would be in order.

**Department Approval:**



**City Manager Approval:**



**RESOLUTION**

**WHEREAS**, the City of Winona staff have identified that a revision to the City website is needed.

**WHEREAS**, a technology committee was created by City staff to review the existing website and make recommendations for improvements.

**WHEREAS**, City staff met with multiple vendors to evaluate their capability to provide a product that will enhance the experience for the public, make information accessible to site visitors, and be easy to maintain.

**WHEREAS**, the technology committee identified CivicPlus from Kansas City, Kansas as a vendor with a quality product to meet the needs of staff and the public.

**WHEREAS**, CivicPlus has agreed to work with City staff to provide a systematic process to update and transfer content to a new website within the year 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the City of Winona, Minnesota, that the proposal by CivicPlus of Kansas City, Kansas, to update and host the City of Winona website is accepted, and to authorize the Mayor and City Clerk to execute the agreement.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Mark F. Peterson  
Mayor

Attest:

\_\_\_\_\_  
Monica Hennessy Mohan  
City Clerk

**CivicPlus**

302 South 4th St. Suite 500  
 Manhattan, KS 66502  
 US

**Quote #:**

Q-05811-1

**Date:**

10/30/2019 3:11 PM

**Expires On:**

2/28/2020

**Product:**

CivicEngage

**Ship To**

Deb Beckman  
 Winona MN - CivicEngage

**Bill To**

Winona MN - CivicEngage

SALESPERSON	Phone	EMAIL	DELIVERY METHOD	PAYMENT METHOD
John Pugh	x(785) 323-7160	pugh@civicplus.com		Net 30

**Exhibit A.1 - Statement of Work**

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
1.00	GCMS	GCMS Annual Fee	Renewable
1.00	Hosting & Security	Hosting & Security	Renewable
1.00	CRT System	CRT System	Renewable
1.00	Forms	Forms	Renewable
1.00	Messaging Add-on	Messaging Add-on per 50,000 message per year (\$0.01 per message)	Renewable
1.00	Favicon Client	Apply client-provided website icon	One-time
2.00	V5 Banner	Design/apply unique interior banner to website	One-time
1.00	Admin Training	Up to 1 day Virtual instruction with live instructor. (Pricing per two (2) seats)	One-time
1.00	Basic User Training	Basic User Training - Up to 1 day Virtual instruction with live instructor. (Pricing includes up to eight (8) seats)	One-time
1.00	Advanced User Training	Up to 1 day Virtual instruction with live instructor. (Pricing includes up to eight (8) seats per learning 45-minute learning module)	One-time
1.00	4yr Redesign Premium Annual	4yr Redesign Premium Annual	Renewable
1.00	SSL Management – CP Provided Only	SSL Management – CP Provided Only 1 per domain (Annually Renews)	Renewable
150.00	Content Development - 1 Page	Content Development - 1 Page	One-time

QTY	PRODUCT NAME	DESCRIPTION	PRODUCT TYPE
2.00	Agendas & Minutes Migration - PDF - 100 Meetings	Content Migration : Agendas & Minutes - Per 100 Meetings (Approx. 1 year)	One-time
1.00	Premium Implementation	Premium Implementation	One-time

Total Days of Quote:365

One Time Costs	\$18,500.01
Recurring Costs	\$3,999.98

\* Recurring Costs stated herein are based upon the number of days stated above. Upon renewal of this SOW, the Recurring Costs will reflect a 365 day calendar year.

#### Addendum 1 to Exhibit A.1 – Services Provided

1. Performance and payment under this Statement of Work (SOW) shall be subject to the terms & conditions of the Agreement by and between Client and CivicPlus, to which this SOW is hereby attached as Exhibit A.1.
2. This SOW shall remain in effect for an initial term of one year (12 months) from signing. In the event that neither party gives 60 days' notice to terminate prior to the end of the initial or any subsequent renewal term, this Agreement will automatically renew for an additional 1-year Renewal Term.
3. The Total Fees Year 1 (sum of One Time Cost and Recurring Cost) will be invoiced as follows:
  1. Upon signing this SOW, thirty percent (30%) of the Total First Year Fees.
  2. The earlier of 6 months from signing or upon completion of CivicEngage Implementation (completion of training), the remaining seventy percent (70%) of the Total Fees Year 1.
4. Renewal Term Annual Fees (Recurring Costs) shall be invoiced on the date of signature of relevant calendar years. Annual services, including but not limited to hosting, support and maintenance services, shall be subject to a 5% annual increase beginning in Year 3 of service.
5. If a 'Recurring Redesign' line is included with Client's quote on the first page of this SOW, Client shall be entitled to a redesign at no additional cost if Client maintains continuous service under this SOW for the full 48 months. Redesigns that include additional features not available on the original website may be subject to additional charges. Additional features include, but are not limited to, additional modules and integration of third-party software.
6. Client allows CivicPlus to display a "Government Websites by CivicPlus" insignia, and web link at the bottom of their web pages. Client understands that the pricing and any related discount structure provided under this SOW assumes such perpetual permission.
7. The Client will be invoiced electronically through email. Upon request CivicPlus will mail invoices and the Client will be charged a \$5.00 convenience fee.

**Acceptance**

We, the undersigned, agreeing to the conditions specified in this document, understand and authorize the provision of services outlined in this Agreement.

**CITY OF WINONA:**

By: \_\_\_\_\_  
Mark Peterson, Its Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Monica Hennessy Mohan, Its City Clerk

Date: \_\_\_\_\_

**CIVICPLUS:**

By: \_\_\_\_\_  
\_\_\_\_\_, Its \_\_\_\_\_

Date: \_\_\_\_\_

**Contact Information**

\*all documents must be returned: Master Service Agreement, Statement of Work, and Contact Information Sheet.

<b>Organization</b>			<b>URL</b>
Street Address			
Address 2			
City	State	Postal Code	
CivicPlus provides telephone support for all trained clients from 7am –7pm Central Time, Monday-Friday (excluding holidays). Emergency Support is provided on a 24/7/365 basis for representatives named by the Client. Client is responsible for ensuring CivicPlus has current updates.			
<b>Emergency Contact &amp; Mobile Phone</b>			
<b>Emergency Contact &amp; Mobile Phone</b>			
<b>Emergency Contact &amp; Mobile Phone</b>			
<b>Billing Contact</b>		<b>E-Mail</b>	
Phone	Ext.	Fax	
Billing Address			
Address 2			
City	State	Postal Code	
Tax ID #		Sales Tax Exempt #	
Billing Terms		Account Rep	
Info Required on Invoice (PO or Job #)			
<b>Contract Contact</b>		<b>Email</b>	
Phone	Ext.	Fax	
<b>Project Contact</b>		<b>Email</b>	
Phone	Ext.	Fax	

<b>Phase 1 – Initiate</b>				
<b>CivicPlus Deliverables:</b> Project Timeline				
<b>Client Deliverables:</b> Project Timeline Approval Form				
Task	Responsibility			Details
	Client	CivicPlus	Shared	
Project Initiation & Review		X		Project Manager will review the contract, Statement of Work (SOW) and any other documentation from the sales process. Project Manager will send initial project kickoff information to the client.
Project Kickoff (Meeting)			X	Project Manager will set the expectations for the website implementation process, assign client deliverables, due dates and collaborate with the client to understand goals for the project.
Planning & Scheduling			X	Project Timeline will be coordinated by the Project Manager and approved by the client. Internal resources needed for the website production will be scheduled.
Project Timeline Preparation		X		Project Manager will coordinate the complete project timeline based on the agreed due date of the client deliverables established during the Project Kickoff Meeting and available internal resources. Project Manager will provide this timeline for the client to review and approve.
Project Timeline Review & Approval <b>(MILESTONE)</b>	X			Client will review the Project Timeline Proposal and request any changes necessary due to scheduling conflicts.

<b>Phase 2 – Analyze</b>				
<b>CivicPlus Deliverables:</b> Design & Configure Strategy Recommendations				
<b>Client Deliverables:</b> Design Discovery Form; Website Analytics; Photos for Design; DNS information; Layout approval Form; Design & Content Strategy Approval Form				
Task	Responsibility			Details
	Client	CivicPlus	Shared	
Client Deliverables	X			Client will submit deliverables as outlined (Design Discovery Form; Website Analytics; Photos for Design; DNS information)
Design Discovery Form	X			Client will complete the Design Discovery Form indicating design preferences to be discussed during the Design Discovery Meeting. <a href="http://civicplusdemo.com/designdiscovery">http://civicplusdemo.com/designdiscovery</a>
Website Analytics	X			If available, client will share analytics from their current website to help guide the development of the new website.
Photos for Design	X			Client will submit 10-20 high-resolution images for possible use in the homepage website design. These may be used in the website background, homepage slideshow, etc.
Logo & Branding Materials	X			Client will provide any branding guidelines and / or imagery that should be used in the website design - logo, seal, color palette, branding guide, etc.
DNS Worksheet	X			Client will complete the DNS Worksheet to provide details needed to complete setup of website domain. <a href="http://civicplusdemo.com/dnsform">http://civicplusdemo.com/dnsform</a>
Website Content Review		X		Project Manager will coordinate the complete project timeline based on the agreed due date of the client deliverables established during the Project Kickoff Meeting and available internal resources. Project Manager will provide this timeline for the client to review and approve.
DNS Configuration		X		DNS Coordinator will prepare domain name transfer or setup according to the specifications in the submitted DNS Worksheet.
Design Discovery (Meeting)			X	Art Director will review and confirm the design preferences indicated on the Design Discovery Form and develop the strategy for the website design.

Content Process (Meeting)			X	Web Content Specialist will provide an overview of the content development process, assign tasks for content preparation and record content specifications.
Project Workbook: Content Preparation & Updates	X			Client will review and update existing website in preparation for content development. All updates must be made prior to the due date to ensure they are included in the Content Migration & Optimization.
Mood Board & Layout			X	CivicEngage team will create a mood board and layout proposal to confirm website color palette and style and wireframe structure of home and interior page
Mood Board & Layout Creation		X		Art Director will provide the completed Mood Board and Layout.
Mood Board & Layout Review and Approval	X			Client will provide written approval of website mood board.

<b>Phase 3 – Design &amp; Configure</b>				
<b>CivicPlus Deliverables:</b> Design Templates & Tools; Production Website				
<b>Client Deliverables:</b> Design Concept Review & Feedback; Design Concept Approval; Content Cut-off Approval; Production Website Feedback				
Task	Responsibility			Details
	Client	CivicPlus	Shared	
Website Design*		X		Graphic Design will prepare a functioning design to present during the Design Concept Meeting. (*Client will choose up to 3 unique design components.)
Design Creation		X		Creative Services team will create the Design Concept.
Design Preparation		X		Graphic Designer will prepare the website design files for design setup.
Quality Control - Design		X		Art Director will review, provide feedback and approve the website design before it is prepared for website development.
Quality Control - Design Revisions		X		If needed, Graphic Designer will make adjustments requested by Art Director.
Design Setup		X		Web Developer will convert the prepared design into a functioning production website to be shared during the Design Concept Meeting.
Quality Control - Design Setup		X		Art Director will review the design setup prior to the Design Concept Meeting.
Quality Control - Design Setup Revisions		X		If needed, Web Developer will make adjustments requested by Art Director.
Design Concept (Meeting)			X	CivicEngage team will present the initial design concept on a functional production website environment.
Design Concept Review & Approval	X			If necessary, client will provide feedback on the Design Concept. Client will submit the Design Concept Approval Form to indicate approval of final Design Concept. <a href="http://civicplusdemo.com/designapproval">http://civicplusdemo.com/designapproval</a>
Design Concept Revisions		X		If applicable, CivicEngage team will make requested changes to the Design Concept. Completed changes will be returned to client for any additional feedback or approval.
Training Engagement Coordination			X	Trainer will review project documentation and connect with client to discuss training schedule, logistics and technology requirements to prepare for engagement.
Project Workbook: Change Tracking	X			Client will keep a record of all changes made to their existing website during Content Development. Client will have access to make updates and changes recorded during / after training in preparation for Website Launch. All updates must be made prior to the Content Preparation & Updates due date to ensure they are included in Content Migration & Optimization.
Content Development		X		Content Team will migrate and optimize the content from the client's existing website to the production website and complete a quality check.
Site Map Creation		X		Content Analyst will create a site map documenting the client's existing website and note any questions requiring client feedback.
Content Migration Setup		X		Web Content Specialist will prepare project for migration process.
Content Migration & Optimization		X		Content Team will migrate content from client's existing website to the production website and optimize using best practices for usability and accessibility.

Quality Control - Content		X		Content Analyst will review production website to ensure usability and consistency.
Quality Control - Content Revisions		X		If needed, content will be updated as requested by the Content Analyst.
Final Content Report Creation		X		Web Content Specialist will create final content report to be shared with client.
Design Templates & Tools		X		Graphic Design will create templates and other design tools for website maintenance.
Quality Control - Production Website		X		CivicEngage team will execute a thorough review of the production website in preparation for the Website Reveal Meeting.
Website Reveal Meeting			X	CivicEngage team will present the completed website, including finished design and content.

<b>Phase 4 – Optimize</b>				
<i>CivicPlus Deliverables: None</i>				
<i>Client Deliverables: Website Evaluation</i>				
<b>Task</b>	<b>Responsibility</b>			<b>Details</b>
	Client	CivicPlus	Shared	
Website Finalization	X			Client will evaluate the production website and confirm all expectations were met in accordance with the Statement of Work / project contract.
Project Workbook: Finalization Planning Worksheet	X			Client completes Finalization Planning Worksheet in the workbook. Project Manager coordinates resources and remaining items.
Website Corrections		X		CivicEngage team completes outstanding items from the Finalization Planning Worksheet.

<b>Phase 5 – Educate</b>				
<i>CivicPlus Deliverables: Instructor Led Training</i>				
<i>Client Deliverables: None</i>				
<b>Task</b>	<b>Responsibility</b>			<b>Details</b>
	Client	CivicPlus	Shared	
Training Engagement			X	Trainer delivers product training.

<b>Phase 6 – Launch</b>				
<i>CivicPlus Deliverables: None</i>				
<i>Client Deliverables: Website Approval</i>				
<b>Task</b>	<b>Responsibility</b>			<b>Details</b>
	Client	CivicPlus	Shared	
Website Launch Confirmation Meeting			X	Project Manager will review the launch process.
Project Workbook: Pre-Launch Checklist	X			Client will complete the Pre-Launch Checklist from the Project Workbook.
Website Approval	X			Client will submit the Website Approval Form to indicate statement of work has been fulfilled. <a href="http://civicplusedemo.com/websiteapproval">http://civicplusedemo.com/websiteapproval</a>
Website Launch			X	The new website is made available to the public with live domain name.
Project Close Procedures			X	Project Manager will complete the administrative tasks related to transitioning project from implementation to client care.



## CivicPlus

302 South 4th St. Suite 500  
Manhattan, KS 66502  
US

Master Services Agreement:  
Winona MN

THIS Master Services Agreement (“Agreement”) is agreed to by and between CivicPlus, LLC., d/b/a CivicPlus (“CivicPlus”) and Winona MN; (“Client”) (referred to individually as “Party” and jointly as “Parties”) and shall be effective as of the later date of signing indicated at the end of this Agreement (“Effective Date”).

### RECITALS

**I. WHEREAS**, CivicPlus is engaged in the business of developing, marketing and selling custom community engagement and government management platforms and services that include but are not limited to web sites, web interfaces and portals and proprietary software systems and associated modules; in addition to project development, design, implementation, support and hosting services for same;

**II. WHEREAS**, Client wishes to engage in a relationship with CivicPlus for such services and/or license for the development and use of proprietary software developed and owned by CivicPlus;

**III. WHEREAS**, Client and CivicPlus have agreed to certain terms as set forth in this Agreement by this written instrument duly executed by the Parties;

**NOW, THEREFORE**, Client and CivicPlus agree as follows:

#### Term & Termination

1. This Agreement shall commence on the date set forth below and shall remain in full force and effect during the term of any associated or attached Statement of Work (“SOW”) between CivicPlus and Client. This Agreement and any associated or attached SOW will continue under the conditions set forth herein until terminated by either Party as specifically authorized herein.
2. Either Party may terminate this Agreement or any associated SOW at the end of the SOW term by providing the other Party with 60 days’ written notice prior to the SOW renewal date.
3. Upon termination of this Agreement or any associated or attached SOW, the licenses granted for such relevant SOW by Section 15, below, will terminate; Client shall cease all use of the CivicPlus Property (as defined herein) associated with the terminated SOW.
4. Notwithstanding the above, in the event this Agreement or any SOW is terminated, for any reason, prior to payment in full being made by Client for work completed by CivicPlus, any outstanding invoices or future planned billing for the development of Client’s chosen government management platform and/or services, as defined in the SOW (“Project Development”), shall immediately become due in full.

#### Statements of Work

5. CivicPlus agrees to perform services and/or produce deliverables in accordance with the SOW in consideration of the fees owed by Client in described in the same SOW. Multiple and successive SOW may be entered into and shall be attached hereto. Such SOWs are incorporated into this Agreement by reference and subject to the terms & conditions contained herein pursuant to Section 27.

### **Invoicing & Payment Terms**

6. Invoices shall be sent electronically to the individual/entity designated in the SOW's contact sheet, to be filled out and submitted by Client. Client shall provide accurate, current and complete information of Client's legal business name, address, email address, and phone number, and maintain and promptly update this information if it should change. Upon request CivicPlus will mail invoices, and the Client will be charged a \$5.00 convenience fee.

7. Payment is due 30 days from date of invoice. Unless otherwise limited by law, a finance charge of 1.5 percent (%) per month or \$5.00, whichever is greater, will be added to past due accounts. Payments received will be applied first to finance charges, then to the oldest outstanding invoice(s).

8. If the Client's account exceeds 60 days past due, support will be discontinued until the Client's account is made current. If the Client's account exceeds 90 days past due, Annual Services will be discontinued, and the Client website, modules, interfaces or portals will no longer be active until the Client's account is made current. Client will be given 30 days' notice prior to discontinuation of services for non-payment.

9. If the Client requests a change in the timeline set forth and agreed upon at the beginning of the services, and such change causes CivicPlus to incur additional expenses (i.e. airline change fees, consultant fees), Client agrees to reimburse CivicPlus for those fees. Not to exceed \$1,000 per CivicPlus resource per trip. CivicPlus shall notify Client prior to incurring such expenses and shall only incur those expenses which are approved by Client.

### **Ownership & Content Responsibility**

10. Upon full and complete payment of submitted invoices for any SOW Project Development Fees, Client will own the website graphic designs, webpage or software content, module content, importable/exportable data, and archived information as created by CivicPlus on behalf of Client pursuant to this Agreement ("Customer Content").

11. Upon completion of any SOW Project Development, Client will assume full responsibility for website, software or module content maintenance and administration. Client, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Content.

12. Client agrees that CivicPlus shall not migrate, convert, or port content or information that could reasonably be construed to be time-sensitive, such as calendar or blog content, in any Project Development.

13. Client will make a reasonable attempt to work with CivicPlus, if requested, to create a news item to be released in conjunction with their project Go-Live date. Client will provide CivicPlus with contact information for local and regional media outlets. CivicPlus may use the press release in any marketing materials as desired throughout the term of this Agreement.

### **Intellectual Property & Ownership**

14. Intellectual Property of any software or other original works created by or licensed to CivicPlus prior to the execution of this Agreement ("CivicPlus Property") will remain the property of CivicPlus. Client shall not (i) license, sublicense, sell, resell, reproduce, transfer, assign, distribute or otherwise commercially exploit or make available to any third party any CivicPlus Property in any way; (ii) modify or make derivative works based upon any CivicPlus Property; (iii) create Internet "links" to the CivicPlus Property software or "frame" or "mirror" any CivicPlus Property administrative access on any other server or wireless or Internet-based device; or (iv) reverse engineer or access any CivicPlus Property in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of any CivicPlus Property, or (c) copy any ideas, features, functions or graphics of

any CivicPlus Property. The CivicPlus name, the CivicPlus logo, and the product and module names associated with any CivicPlus Property are trademarks of CivicPlus, and no right or license is granted to use them.

15. Provided Client complies with the terms and conditions herein, the relevant SOW, and license restrictions set forth in Section 14, CivicPlus hereby grants Client a limited, nontransferable, nonexclusive, license to access and use the CivicPlus Property associated with any valid and effective SOW associated with this Agreement, for the term of the respective SOW.

### **Indemnification**

16. To the extent permitted by the law of Client's state, Client and CivicPlus shall defend, indemnify and hold the other Party, its partners, employees, and agents harmless from and against any and all lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses including attorney's fees of any kind, without limitation, arising out of the negligent actions and omissions, or intentionally malicious actions or omissions of the indemnifying Party or its partners, employees, and agents, directly associated with this Agreement and the operations and installation of software contemplated by this Agreement. This section shall not apply to the extent that any lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses is caused by the negligence or willful misconduct on the part of the other Party.

### **Client Responsibilities**

17. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier, licensor or other third-party service provider whose facilities or services are used in furnishing any portion of the service received by the Client.

18. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by Client or any entity employed/contracted on the Client's behalf.

19. Client agrees that it is solely responsible for any solicitation, collection, storage, or other use of end-users' personal data on any website or online service provided by CivicPlus. Client further agrees that CivicPlus has no responsibility for the use or storage of end-users' personal data in connection with the website or the consequences of the solicitation, collection, storage, or other use by Client or by any third party of personal data.

20. To the extent it may apply to any service or deliverable of any SOW, user logins are for designated individuals chosen by Client ("Users") and cannot be shared or used by more than one User. Client will be responsible for the confidentiality and use of User's passwords and User names. Client will also be responsible for all electronic communications, including those containing business information, account registration, account holder information, financial information, Client data, and all other data of any kind contained within emails or otherwise entered electronically through any CivicPlus Property or under Client's account. CivicPlus will act as though Client will have sent any electronic communications it receives under Client's passwords, user name, and/or account number. Client shall use commercially reasonable efforts to prevent unauthorized access to or use of any CivicPlus Property and shall promptly notify CivicPlus of any unauthorized access or use of any CivicPlus Property and any loss or theft or unauthorized use of any User's password or name and/or user personal information.

21. Client shall comply with all applicable local, state, and federal laws, treaties, regulations, and conventions in connection with its use of any of the services or CivicPlus Property.

### **Limitation of Liability**

22. CivicPlus' liability arising out of or related to this Agreement, or any associated SOW, will not exceed the Annual Services Fee paid by Client in the year prior to such claim of liability.

23. In no event will CivicPlus be liable to Client for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Agreement.

24. The liabilities limited by Section 22 and 23 apply: (a) to liability for negligence; (b) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (c) even if Client is advised in advance of the possibility of the damages in question and even if such damages were foreseeable; and (d) even if Client's remedies fail of their essential purposes. If applicable law limits the application of the provisions of this Limitation of Liability section, CivicPlus' liability will be limited to the maximum extent permissible.

### **Force Majeure**

25. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

### **Taxes**

26. It is CivicPlus' policy to pass through sales tax in those jurisdictions where such tax is required. If the Client is tax-exempt, the Client must provide CivicPlus proof of their tax-exempt status, within fifteen (15) days of contract signing, and the fees owed by Client under this Agreement will not be taxed. If the Client's state taxation laws change, the Client will begin to be charged sales tax in accordance with their jurisdiction's tax requirements and CivicPlus has the right to collect payment from the Client for past due taxes.

### **Other Documents**

27. The following, if applicable, are to be attached to and made part of this Agreement:

- a. Any Addendum and/or Amendments to this Agreement signed by both Parties;
- b. Exhibit A - Statement(s) of Work;
- b. Service Agreement Sales Forms;
- c. Service Agreements previously executed between the Parties; and
- d. Custom Development / Retainer Agreement

28. In the event of conflict with an attachment to this Agreement, this main body of this Agreement will govern. Notwithstanding the foregoing, no SOW or other attachment incorporated into this Agreement after execution of this main body of this Agreement will be construed to amend this main body unless it specifically states its intent to do so and cites the section or sections amended.

29. This Agreement and all attachments hereto sets forth the entire agreement of the Parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to its subject matter.

### **Interlocal Purchasing Consent**

30. With the prior approval of CivicPlus, which may be withheld for any or no reason within CivicPlus' sole discretion, this Agreement and any attached SOWs may be extended to any public entity in Client's home-state to purchase at the SOW prices and specifications in accordance with the terms stated herein.

### **Miscellaneous Provisions**

31. The invalidity, in whole or in part, of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

32. No amendment, assignment or change to this Agreement or any included SOW shall be effective unless by a written instrument executed by each of the Parties.

33. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.

34. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

**Acceptance**

We, the undersigned, agreeing to the conditions specified in this document, understand and consent to the terms & conditions of this Agreement.

**CITY OF WINONA:**

By: \_\_\_\_\_  
Mark Peterson, Its Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Monica Hennessy Mohan, Its City Clerk

Date: \_\_\_\_\_

**CIVICPLUS:**

By: \_\_\_\_\_, Its \_\_\_\_\_

Date: \_\_\_\_\_

Please sign and email to John Pugh at [pugh@civicplus.com](mailto:pugh@civicplus.com) or fax to

Sign and E-mail the  
entire  
contract with exhibits to:  
<mailto:contracts@civicplus.com>

Signature pages sent without the entire contract attached will not be accepted. We will e-mail a counter-signed copy of the contract back to you once we begin your project.

CivicPlus does not require a physical copy of the contract, however, if you would like a physical copy of the contract, mail one (1) copy of the contract with original signature to:

CivicPlus Contract Manager

302 S. 4th Street, Suite 500  
Manhattan, KS 66502

Upon receipt of signed original, we will counter-sign and return the copy for your files.

**Master Service Agreement and Statement of Work  
Addendum**

This Addendum to Master Services Agreement: Winona MN (the “Addendum”) is made part of and is incorporated by reference into the Master Services Agreement (“Agreement”) by and between CivicPlus, LLC., d/b/a CivicPlus (“CivicPlus”) and the City of Winona MN; (“Client”). The Agreement is subject to those terms and conditions contained in this Addendum, and to the extent there is any inconsistency or conflict between this Addendum, the Agreement or the Statement of Work (“SOW”), this Addendum shall govern. That for and in consideration of the payments provided for in the Agreement and SOW and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Client and CivicPlus do hereby agree as follows:

1. CivicPlus shall comply with all applicable local, state, and federal laws, treaties, regulations, and conventions in connection with its operations or the services provided by it under this Agreement.
2. Paragraphs 22, 24 and 30 of the Agreement are deleted in their entirety.
3. All indemnification obligations shall survive termination, expiration or cancellation of the Agreement.
4. **Liability Insurance Coverage.** CivicPlus shall, at its expense, maintain in effect commercial general liability insurance with limits not less than the minimum coverages and limits of liability specified herein, or as specified in the applicable insurance certificate(s), or as required by law, whichever is greater: \$1,500,000 property damage and bodily injury per occurrence and \$3,000,000 annual aggregate. CivicPlus’ policies shall provide that its coverage shall be primary and noncontributory in the event of a loss.
5. **GENERAL TERMS.**
  - a. **Voluntary and Knowing Action.** The Parties, by executing the Agreement, state that they have carefully read the Agreement and understand fully the contents thereof; that in executing the Agreement they voluntarily accept all terms described in the Agreement and Exhibits thereto without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.
  - b. **Governing Law.** This Agreement shall be deemed to have been made and accepted in Winona County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of this Agreement without regard to its choice of law or conflict of laws principles.
  - c. **No Waiver.** Any Party’s failure in any one or more instances to insist upon strict performance of any of the terms and conditions of the Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party’s right to assert or rely upon the terms and conditions of the Agreement. Any express waiver of a term shall not be binding and effective unless made in writing and properly executed by the waiving party.
  - d. **Independent Contractor Status.** CivicPlus, at all times and for all purposes hereunder, shall be an independent contractor and is not an employee of Client for any purpose. No statement contained in the Agreement shall be construed so as to find CivicPlus to be an employee of Client, and CivicPlus shall not be entitled to any of the rights, privileges, or benefits of employees of Client, including but not limited to, workers’ compensation, health/death benefits, and indemnification for third-party personal injury/property damage claims. CivicPlus acknowledges that no withholding or deduction for State or Federal income taxes, FICA, FUTA, or otherwise, will be made from the

payments due CivicPlus, and that it is CivicPlus' sole obligation to comply with the applicable provisions of all Federal and State tax laws. CivicPlus shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services identified herein. CivicPlus is responsible for hiring sufficient workers to perform the services/duties required by the Agreement, withholding their taxes and paying all other employment tax obligations on their behalf.

- e. Non-Discrimination. The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of the Agreement as if fully set forth herein.
- f. Data Practices. The Parties acknowledge that the Agreement is subject to the requirements of Minnesota's Government Data Practices Act (Act), Minnesota Statutes, Section 13.01 et seq.
- g. Patented Devices, Materials and Processes. If this Agreement requires, or CivicPlus desires, the use of any design, device, material or process covered by letters, patent or copyright, trademark or trade name, CivicPlus shall provide for such use by suitable legal agreement with the patentee or owner and shall indemnify and hold harmless Client from any and all claims for infringement by reason of the use of any such patented designed, device, material or process, or any trademark or trade name or copyright in connection with the services agreed to be performed under the Agreement.

6. Acceptance. We, the undersigned, agreeing to the conditions specified in this document, understand and consent to the terms & conditions of this Agreement.

**CITY OF WINONA:**

By: \_\_\_\_\_  
Mark Peterson, Its Mayor

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Monica Hennessy Mohan, Its City Clerk

Date: \_\_\_\_\_

**CIVICPLUS:**

By: \_\_\_\_\_  
\_\_\_\_\_, Its \_\_\_\_\_

Date: \_\_\_\_\_

# REQUEST FOR COUNCIL ACTION

<i>Agenda Section:</i> <b>New Business</b>	<i>Originating Department:</i>	<i>Date</i>
<b>No: 5</b>	<b>City Manager</b>	<b>01/21/20</b>
<i>Item:</i> <b>Drug Free Workplace &amp; Non-DOT Drug and Alcohol Testing Policy, and DOT Drug and Alcohol Testing Policy</b>		
<b>No. 5.6</b>		

## SUMMARY OF REQUESTED ACTION:

The City drug free workplace and drug and alcohol testing polices were last updated in April 2004. New state and federal legislation has required that the City update these policies.

The Drug Free Workplace and Non-DOT Drug Testing Policy is applicable to all employees who work for the City. This policy was updated to include the following revisions:

1. Implementation of a new policy format
2. Elimination of redundant language throughout
3. Clarification of cannabis and cannabinoid oil use
4. Clarification of testing following an accident and applicable documentation standards if a test is not administered

The DOT Drug and Alcohol Testing Policy is applicable to all employees who are required to hold a Commercial Driver's License for their position or are considered to be a driver in waiting who may be asked to perform work in a commercial vehicle.

1. Implementation of a new policy format
2. Elimination of redundant language throughout
3. Clarification of cannabis and cannabinoid oil use
4. Clarification of minimum testing requirements as defined by the department of transportation
5. Inclusion of the DOT Clearinghouse for pre-employment screening and reporting of drug testing violations that went into effect on January 6, 2020.

Both policies will go into effect on February 1, 2020.

If Council concurs, a motion to approve the updated Drug Free Workplace & Non-DOT Drug and Alcohol Testing Policy, and DOT Drug and Alcohol Testing Policy would be in order.

**Department Approval:**



**City Manager Approval:**



## Drug & Alcohol Free Workplace and Non-DOT Drug & Alcohol Testing Policy

SOP #: 104.15	Revision: 3	Prepared By: DAB/PWD
Effective Date: 02/01/2020	Supersedes: 04/06/2004	Approved By: STS

### Section 1 - Overview

<b>1.1 Objective</b>	<p>The City of Winona (“City”) has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers, the public, as well as themselves. The City does not intend to intrude into the private lives of its employees, but strongly believes that a drug- and alcohol-free workplace is in the best interest of employees and the public alike. Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers’ compensation claims, higher insurance rates, and an increase in theft of City property.</p>
<b>1.2 Purpose</b>	<p><u>Drug-Free Awareness Program</u></p> <p>This policy serves to establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace and its policy of maintaining a drug-free workplace.</p> <p><u>MN Drug and Alcohol Testing in the Workplace Act</u></p> <p>This policy is consistent with the Minnesota Drug and Alcohol Testing in the Workplace Act, the City’s Non-DOT Drug and Alcohol Testing Policy has been established for the purpose of providing a safe workplace for all. City employees and applicants required to hold a commercial driver’s license by the United States Department of Transportation (“DOT”) for their job will be tested under the City’s DOT Drug and Alcohol Testing Policy (the “DOT Policy”) for the tests specified in such policy. All other tests and employees and job applicants offered employment with the City must undergo testing as described by this policy.</p>
<b>1.3 Notice and Consent of Policy</b>	<p>To ensure the policy is clearly communicated to all employees and applicants to whom offers of employment have been made, and to comply with state law, employees and applicants are required to review this policy and sign the Notice and Consent of Drug and Alcohol Testing the City will provide. A job applicant will also acknowledge in this form that he/she understands that passing the drug test is a requirement of the job.</p>
<b>1.4 Changes to Policy</b>	<p>Because changes in applicable law and the City’s practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the City will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. This policy does not in any way affect or change the status of any at-will employee.</p>

	<p>Any revisions to the Minnesota Drug and Alcohol Testing in the Workplace Act will take precedent over this policy to the extent the policy has not incorporated those revisions.</p> <p>If any specific provisions of this policy conflicts with any current labor contract or civil service rules, the labor contract or civil service rules will prevail, except for any specific language required by law.</p> <p>The City retains the full and unrestricted right to establish, modify, or eliminate any component of employment related to or included within this policy.</p>
<b>1.5 Additional Information</b>	If you have any questions about this policy or the City's drug and alcohol testing procedures, you may contact the City Human Resources department, to obtain additional information.
<b>Section 2 – Drug and Alcohol-Free Workplace</b>	
<b>2.1 Employees may not use or possess alcohol or drugs while on duty</b>	Employees are prohibited from the use, possession, transfer, transportation, manufacture, distribution, sale, purchase, solicitation to sell or purchase, or dispensation of alcohol, drugs, or drug paraphernalia while on duty; on City premises; operating any City vehicle, machinery, or equipment; or performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; (2) the use of over-the-counter controlled substance used as intended by the manufacturer; or (3) when necessary for approved law enforcement activity.
<b>2.2 Employees are prohibited from being impaired or under the influence of alcohol or drugs while on duty</b>	<p>Employees are prohibited from being impaired by any alcohol or drugs when reporting for work; while on duty; on the City's premises; while operating any City vehicle, machinery, or equipment; or when performing any City business.</p> <p>Employees are prohibited from being under the influence of alcohol or drugs, or having a detectable amount of an illegal drug in the blood or urine when reporting for work; while on duty; on the City's premises; while operating any City vehicle, machinery, or equipment; or when performing any City business, except (1) pursuant to a valid medical prescription used as properly instructed; or (2) the use of over-the-counter controlled substance used as intended by the manufacturer.</p>
<b>2.3 Employees may not use, possess, or be impaired by cannabis</b>	<p>Besides the policy prohibiting the use or possession of alcohol, illegal drugs, or misused prescription drugs on the worksite, we also prohibit the use of, possession of, or impairment by any cannabis products (including medical cannabis) on the worksite by any employee of the City or while "on call" and subject to return to work. Having a medical marijuana card, patient registry number, and/or cannabis prescription from a physician does not allow anyone to use, possess, or be impaired by the drug on site. The federal government still classifies cannabis as an illegal drug, even though Minnesota has decriminalized its use for certain medical purposes.</p> <p>There is no acceptable concentration of marijuana metabolites in the blood or urine of an employee who operates City equipment or vehicles or who is in a safety-sensitive position. Applicants and employees are still subject to being tested under our drug and alcohol testing policy and, as necessary, under the</p>

	<p>DOT testing policy found in Section 2. Employees are subject to being disciplined, suspended, or terminated after a confirmed positive test for cannabis if the employee used, possessed, or was impaired by cannabis, including medical cannabis, while on the premises or during the hours of employment.</p> <p>Employees are prohibited from having a detectable amount of THC in their blood or urine, other than pursuant to a valid medical prescription used as properly instructed and not from use on City property or during work hours. An employee may present verification of enrollment in the patient registry as part of the employee's explanation of a positive urine or blood test. The use of cannabidiol substances containing trace amounts of THC is not an explanation for a confirmed positive THC test.</p>
<b>2.4 Employee Assistance Program</b>	<p>The City has in place a formal employee assistance program (EAP) to assist employees in addressing serious personal or work-related problems at any time. The City's EAP provides confidential, cost-free, short-term counseling to employees and their families. Employees who may have an alcohol or other drug abuse problem are encouraged to seek assistance before a problem affects their employment status. Contact Human Resources for the most current contact information for the employee assistance program services. You may also find the information on the City Employee Intranet.</p>
<b>2.5 Criminal Controlled Substance Convictions Must be Reported</b>	<p>Any employee convicted of any criminal drug statute must notify his or her supervisor and Human Resources in writing of such conviction no later than five days after such conviction.</p> <p>Within 30 days after receiving notice from an employee of a controlled substance-related conviction, the City will take appropriate personnel action against the employee up to and including discharge, or require the employee to satisfactorily participate in a controlled substance abuse assistance or rehabilitation program as an alternative to discharge.</p> <p>In the event notice is not provided to the supervisor and the employee is deemed to be incapable of working safely, the employee will not be permitted to work and will be subject to disciplinary action, including dismissal from employment.</p> <p>In accordance with the Federal Drug-Free Workplace Act of 1988, if the City is receiving federal grants or contracts of over \$25,000, the City will notify the appropriate federal agency of such conviction within 10 days of receiving notice from the employee.</p>
<b>2.6 Employees Must Disclose Use of Lawful Controlled Substance and Possible Impairment</b>	<p>Employees taking a lawful controlled substance, including prescription and over-the-counter controlled substances, which may impair their ability to perform their job responsibilities or pose a safety risk to themselves or others, must advise their supervisor of this before beginning work. It is the employee's responsibility to seek out written information from his/her physician or pharmacist regarding medication and any job performance impairment and relay that information to his/her supervisor. In the event of such a disclosure, the employee will not be authorized to perform safety-sensitive functions.</p>
<b>2.7 Emergency Call Back to Work</b>	<p>If an employee is called out for a City emergency and he or she reports to work and is suspected of being under the influence of drugs or alcohol, he or she will</p>

	<p>not be subject to the testing procedures of this policy, but may be subject to discipline and will not be allowed to work. Appropriate arrangements for return transportation to the employee's residence will be made. It is the sole responsibility of the employee who is under the influence of alcohol and/or drugs and who is called out for a City emergency, to notify his or her supervisor of this information and advise if he or she is unable to respond to the emergency call back.</p>
<p><b>Section 3 – Drug and Alcohol Testing</b></p>	
<p><b>3.1 Persons Subject to Testing</b></p>	<p>Under this policy, the City may test any applicant to whom an offer of employment has been made, and may test any employee for alcohol and/or controlled substance under any of the circumstances listed within this section with a properly accredited or licensed testing laboratory.</p>
<p><b>3.2 Pre-Employment Testing</b></p>	<p>For positions that the City determines all job applicants conditionally offered employment for that position will undergo drug and/or alcohol testing, every job applicant offered employment with the City for that position will receive the offer conditioned upon passing a drug and/or alcohol test, among other conditions. If the job offer is withdrawn based on drug test results, the City will inform the applicant of the reasons for the withdrawal.</p> <p><u>Positive Test Result</u></p> <p>A positive drug test result from an initial screening test verified by a confirmatory test, a refusal to take the test, or failure to meet other conditions of the offer will result in a withdrawal of the offer of employment even if the applicant's provisional employment has begun.</p> <p><u>Dilute Second Test</u></p> <p>A negative or positive dilute test result following a second collection, which has been confirmed, will also result in immediate withdrawal of an offer of employment to an applicant.</p>
<p><b>3.3 Reasonable Suspicion Testing</b></p>	<p>Employees may be subject to alcohol and drug testing when reasonable suspicion exists to believe that the employee:</p> <ul style="list-style-type: none"> <li>• Is under the influence of alcohol or a controlled substance; or</li> <li>• Has violated written work rules prohibiting the use, possession, sale or transfer of drugs or alcohol while working, while on City property, or while operating City vehicles, machinery or any other type of equipment; or</li> <li>• Has sustained a personal injury as defined in Minn. Stat. § 176.011, subd. 16 or has caused another employee to sustain an injury or;</li> <li>• Has caused a work-related accident or was operating or helping to operate machinery, equipment, or vehicles involved in a work-related accident.</li> </ul> <p>Reasonable suspicion may be based upon, but is not limited to, facts regarding appearance, behavior, speech, breath, odor, possession, proximity to or use of alcohol or a controlled substance or containers or paraphernalia, poor safety record, excessive absenteeism, impairment of job performance, or any other circumstances that would cause a reasonable employer to believe that a violation of the City's policies concerning alcohol or drugs may have occurred. These</p>

	<p>observations will be reflected in writing on a Reasonable Suspicion Record Form.</p> <p>The supervisor will provide a recommendation to the City Manager or designee to perform alcohol and drug testing based on criteria listed within this section. The City Manager or designee may use discretion to administer or waive testing based on the supervisor's recommendation. If testing is waived, a formal statement will be placed in the employee's medical file indicating the reason a test was not administered.</p> <p>For off-site collection, employees will be driven to the employer-approved medical facility by their supervisor or a designee. For an on-site collection service, the employee will remain on site and be observed by the supervisor or designee. The medical facility or on-site collection service will take the urine or blood sample, and will forward the sample to an approved laboratory for testing.</p>
<b>3.4 Treatment Testing Program</b>	<p>The City may request or require an employee to undergo drug and/or alcohol testing if the employee has been referred by the City for chemical dependency treatment or evaluation, or is participating in a chemical dependency treatment program under an employee benefit plan. In such a case, the employee may be requested or required to undergo drug and/or alcohol testing without prior notice during the evaluation or treatment period and for a period of up to two years following completion of any prescribed chemical dependency treatment program.</p>
<b>3.5 Routine Physical Examination Testing</b>	<p>The City may request or require an employee to undergo drug and/or alcohol testing as part of a routine physical examination. The City will request or require this type of testing no more than once annually, and the employee will be provided with at least two weeks' written notice that the test will be required as part of the physical examination.</p>
<b>3.6 Random Testing</b>	<p>The City may require an employee to submit to random drug and/or alcohol testing if the employee is in a safety-sensitive position.</p> <p>A safety-sensitive position is a job, including any supervisory or management position, in which an impairment caused by drug or alcohol usage would threaten the health or safety of any person. The City of Winona considers the following safety sensitive positions:</p> <ul style="list-style-type: none"> <li>• Firefighters</li> <li>• Police Officers</li> <li>• Maintenance workers and supervisors in any division</li> <li>• Seasonal maintenance workers in any division</li> <li>• Lifeguards</li> </ul>
<b>Section 4 – Refusal to Test</b>	
<b>4.1 Right of Refusal</b>	<p>Employees and job applicants have the right to refuse to submit to an alcohol or drug test under this policy. However, such a refusal will subject an employee to immediate discharge. If an applicant refuses to submit to applicant testing, any conditional offer of employment will be withdrawn.</p> <p>Any intentional act or omission by the employee or applicant that prevents the completion of the testing process constitutes a refusal to test.</p>

<p><b>4.2 Altering Test Results</b></p>	<p>An applicant or employee who substitutes, or attempts to substitute, or alters, or attempts to alter a testing sample is considered to have refused to take a drug and/or alcohol test. In such a case, the employee is subject to immediate discharge from employment, and in the case of an applicant, the job offer will be immediately withdrawn.</p>
<p><b>4.3 Refusal on Sincerely Held Religious Belief</b></p>	<p>An employee or job applicant who, based on a sincerely held religious belief, refuses to undergo drug or alcohol testing of a blood sample will not be considered to have refused testing, unless the employee or job applicant also refuses to undergo drug or alcohol testing of a urine sample.</p>
<p><b>Section 5 - Cost</b></p>	
<p><b>5.1 Cost of Required Testing</b></p>	<p>The City will pay for the cost of all drug and alcohol testing requested or required of all job applicants and employees, with the exception of confirmatory retests. Job applicants and employees are responsible for paying for all costs associated with any requested confirmatory retests.</p>
<p><b>Section 6 – Review and Notification of Test Results</b></p>	
<p><b>6.1 Notification of Negative Test Results</b></p>	<p><u>Job Applicant</u></p> <p>In the case of job applicants, City Human Resources staff will notify a job applicant of a negative drug and/or alcohol result within three working days of receipt of result by the City, and the hiring process will resume. A “Negative Test Results Notification” form will be sent to the job applicant, and the job applicant may request a copy of the test result report from the City Human Resources Manager.</p> <p><u>Current Employee</u></p> <p>In the case of current employees, the City Safety Coordinator will notify the employee of a negative drug and/or alcohol result within three working days of receipt of result by the City. A “Negative Test Results Notification” form will be sent to the employee, and he or she may request a copy of the test result report from the City Safety Coordinator.</p>
<p><b>6.2 Notification of Positive Test Result</b></p>	<p>In the event of a confirmed positive blood or urine alcohol and/or drug test result, the City will notify the employee or job applicant of a positive drug and/or alcohol result within three days of receipt of the result. The City Human Resources Manager will send to the employee or job applicant a “Positive Test Results Notification” letter containing further instructions. The employee or job applicant may contact Human Resources to request a copy of the test result report if desired. A laboratory must report results to the City within three working days of the confirmatory test result.</p>
<p><b>6.3 Right to Provide Information after Receiving Test Results</b></p>	<p>Within three working days after notice of a positive controlled substance or alcohol test result on a confirmatory test, the employee or job applicant may submit information to the City to explain the positive result. If an employee submits information either before a test or within three working days after a positive test result that explains the positive test result, (such as the use of prescribed substances or OTC medications), the City will not take an adverse</p>

	employment action based on that information unless the employee has already been under an affirmative duty to provide the information before, upon, or after hire.
<b>6.4 Right to Confirmatory Retest</b>	<p>A job applicant or employee may request a confirmatory retest of the original sample at the job applicant's or employee's own expense after notice of a positive test result on a confirmatory test. Within five working days after notice of the confirmatory test result, the job applicant or employee must notify the City in writing of the job applicant's or employee's intention to obtain a confirmatory retest. Within three working days after receipt of the notice, the City will notify the original testing laboratory that the job applicant or employee has requested the laboratory to conduct the confirmatory retest or transfer the sample to another qualified laboratory licensed to conduct the confirmatory retest. The original testing laboratory will ensure the control and custody procedures are followed during transfer of the sample to the other laboratory. The laboratory is required to maintain all samples testing positive for a period of six months. The confirmatory retest will use the same controlled substance and/or alcohol threshold detection levels as used in the original confirmatory test.</p> <p>In the case of job applicants, if the confirmatory retest does not confirm the original positive test result, the City's job offer will be reinstated and the City will reimburse the job applicant for the actual cost of the confirmatory retest.</p> <p>In the case of employees, if the confirmatory retest does not confirm the original positive test result, no adverse personnel action based on the original confirmatory test will be taken against the employee, the employee will be reinstated with any lost wages or salary for time lost pending the outcome of the confirmatory retest result, and the City will reimburse the employee for the actual cost of the confirmatory retest.</p>
<b>6.5 Access to Reports</b>	An employee will have access to information contained in his or her personnel file relating to positive test results and to the testing process, including all information gathered as part of that process.
<b>6.6 Dilute Specimens</b>	A negative or positive dilute test result (following a second collection) which has been confirmed will subject an employee to immediate discharge.
<b>Section 7 – Consequences for Employees Engaging in Prohibited Conduct</b>	
<b>7.1 No Adverse Action without Confirmatory Test</b>	The City will not discharge, discipline, discriminate against, or request or require rehabilitation of an employee based on a positive test result from an initial screening test that has not been verified by a confirmatory test.
<b>7.2 Suspension Pending Test Result</b>	The City may temporarily suspend a tested employee with or without pay, or transfer that employee to another position at the same rate of pay pending the outcome of the requested confirmatory retest, provided the City believes that it is reasonably necessary to protect the health or safety of the employee, co-employees, or the public. The employee will be asked to return home, and will be provided appropriate arrangements for return transportation to his or her residence. An employee who has been suspended without pay will be reinstated with back pay if the outcome of the requested confirmatory retest is negative.

<p><b>7.3 Discipline and Discharge</b></p>	<p><u>7.3.1 Confirmatory Positive Test Result</u></p> <p>The City will not discharge an employee for a first confirmatory positive test unless the following conditions have been met:</p> <ul style="list-style-type: none"> <li>• The City has first given the employee an opportunity to participate in either a drug or alcohol counseling or rehabilitation program, whichever is more appropriate, as determined by the City after consultation with a certified chemical use counselor or physician trained in the diagnosis and treatment of chemical dependency. Participation by the employee in any recommended substance abuse treatment program will be at the employee's own expense or pursuant to the coverage under an employee benefit plan. The certified chemical use counselor or physician trained in the diagnoses and treatment of chemical dependency will determine if the employee has followed the rehabilitation program as prescribed; and</li> <li>• The employee has either refused to participate in the counseling or rehabilitation program or has failed to successfully complete the program, as evidenced by withdrawal from the program before its completion or by a refusal to test or positive test result on a confirmatory test after completion of the program.</li> </ul> <p><u>7.3.2 Other Misconduct</u></p> <p>Nothing in this policy limits the right of the City to discipline or dismiss an employee on grounds other than a positive confirmatory test result, including conviction of any criminal drug statute for a violation occurring in the workplace or violation of other City personnel policies.</p> <p><u>7.3.3 Driving While Impaired in a City-Owned Vehicle</u></p> <p>A conviction of driving while impaired in a City-owned vehicle at any time during business or non-business hours, or in an employee-owned vehicle while conducting City business, may result in discipline, up to and including discharge.</p>
<p><b>Section 8 – Non-Discrimination</b></p>	
<p><b>8.1 This Policy is Non-discriminatory in Intent and Application</b></p>	<p>The City's policy on work-related substance abuse is non-discriminatory in intent and application; however, in accordance with Minn. Stat., Chapter 363, disability does not include conditions resulting from alcohol or other drug abuse which prevents an employee from performing the essential functions of the job in question or constitutes a direct threat to property of the safety of individuals.</p> <p>Furthermore, the City will not retaliate against any employee for asserting his or her rights under this policy.</p>
<p><b>Section 9 - Definitions</b></p>	
<p><b>Alcohol</b></p>	<p>The intoxicating agent in beverage alcohol or any low molecular weight alcohols such as ethyl, methyl, or isopropyl alcohol. The term includes but is not limited to beer, wine, spirits, and medications such as cough syrup that contain alcohol.</p>
<p><b>Alcohol Use or Usage</b></p>	<p>The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.</p>

<b>Applicant</b>	A person applying for a job with the City.
<b>City</b>	City of Winona
<b>City Premises</b>	All City job sites and work areas. For the purposes of this policy, City premises also include any other locations or modes of transportation to and from those locations while in the course and scope of employment of the City.
<b>City Vehicle</b>	Any vehicle which employees are authorized to use solely for City business when used at any time; or any vehicle owned or leased by the City when used for City business.
<b>Collection Site</b>	A place designated by the City where job applicants and employees present themselves for the purpose of providing a specimen of their urine and/or blood to be analyzed for the presence of controlled substances and alcohol.
<b>Confirmatory Test</b>	A controlled substance or alcohol test on a sample to substantiate the results of a prior controlled substance or alcohol test on the same sample, and that uses a method of analysis allowed under one of the programs listed in Minn. Stat. § 181.953, subd. 1.
<b>Drug</b>	Has the same meaning as “controlled substance” defined in Minn. Stat. § 152.01, subd. 4.
<b>Drug and Alcohol Testing</b>	An analysis of a body component sample according to the standards established under one of the programs listed in Minn. Stat. § 181.953, subd.1, for the purpose of measuring their presence or absence of drugs, alcohol, or their metabolites in the sample tested.
<b>Drug Paraphernalia</b>	As set forth in Minn. Stat. § 152.01, subd. 18.
<b>Employee</b>	A person who performs services for compensation for the City and includes independent contractors except where specifically noted in this policy.
<b>Initial Screening Test</b>	A drug or alcohol test that uses a method of analysis under one of the programs listed in Minn. Stat. § 181.953, subd. 1.
<b>Job Applicant</b>	A person who applies to become an employee of the City, and includes a person who has received a job offer made contingent on the person passing drug testing.
<b>Positive Test Result</b>	A finding of the presence of alcohol, illegal drugs, or their metabolites that exceeds the cutoff levels established by the City. Minimum threshold detection levels are subject to change as determined in the City’s sole discretion.
<b>Random Selection Basis</b>	A mechanism for selection of employees that (1) results in an equal probability that any employee from a group of employees subject to the selection mechanism will be selected, and (2) does not give an employer discretion to waive the selection of any employee selected under the mechanism.
<b>Reasonable</b>	A basis for forming a belief based on specific facts and rational inferences drawn

<b>Suspicion</b>	from those facts.
<b>Under the Influence</b>	Either (1) the employee tests positive for alcohol or drugs, or (2) the employee's actions, appearance, speech, and/or bodily odors reasonably cause the City to conclude that the employee is impaired because of illegal drug use or alcohol use.



# DOT Drug and Alcohol Testing Policy

SOP #: 104.16	Revision: 3	Prepared By: DAB/PWD
Effective Date: 02/01/2020	Supersedes: 04-06-2004	Approved By: STS

## Section 1 - Overview

<p><b>1.1 Objective</b></p>	<p>The City of Winona (“City”) has a vital interest in maintaining safe, healthful, and efficient working conditions for employees, and recognizes that individuals who are impaired because of drugs and/or alcohol jeopardize the safety and health of other workers, the public, as well as themselves. The City is concerned about providing a safe workplace for its employees, and while the City does not intend to intrude into the private lives of its employees, it is the goal to provide a work environment conducive to maximum safety and optimum work standards.</p>
<p><b>1.2 Purpose</b></p>	<p>Alcohol and drug abuse can cause unsatisfactory job performance, increased tardiness and absenteeism, increased accidents and workers’ compensation claims, higher insurance rates, and an increase in theft of City property. The use, possession, manufacture, sale, transportation, or other distribution of controlled substance or controlled substance paraphernalia and the unauthorized use, possession transportation, sale, or other distribution of alcohol is contrary to this policy and jeopardizes public safety.</p> <p>In response to regulations issued by the United States Department of Transportation (“DOT”), the City has adopted this DOT Drug and Alcohol Testing Policy for employees who hold a commercial driver’s license (“CDL”) to perform their duties. The City also has a separate Non-DOT Drug and Alcohol Testing Policy for employees or testing not covered by DOT regulations.</p>
<p><b>1.3 Notice and Consent of Policy</b></p>	<p>Given the significant dangers of alcohol and controlled substance use, each applicant and driver must abide by this policy as a term and condition of hiring and continued employment. Moreover, federal law requires the City to implement such a policy.</p> <p>To ensure this policy is clearly communicated to all drivers and applicants, and in order to comply with applicable federal law, drivers and applicants are required to review this policy and sign the Notice and Consent of Drug and Alcohol Testing the City will provide.</p>
<p><b>1.4 Changes to Policy</b></p>	<p>Because changes in applicable law and the City’s practices and procedures may occur from time to time, this policy may change in the future, and nothing in this policy is intended to be a contract, promise, or guarantee the City will follow any particular course of action, disciplinary, rehabilitative or otherwise, except as required by law. This policy does not in any way affect or change the status of any at-will employee.</p> <p>Any revisions to the federal Omnibus Transportation Employee Testing Act of 1991 or DOT regulations will take precedent over this policy to the extent the</p>

	<p>policy has not incorporated those revisions.</p> <p>If any specific provisions of this policy conflicts with any current labor contract or civil service rules, the labor contract or civil service rules will prevail, except for any specific language required by law.</p> <p>The City retains the full and unrestricted right to establish, modify, or eliminate any component of employment related to or included within this policy.</p>
<b>1.5 Additional Information</b>	<p>If you have any questions about this policy or the City's controlled substance and alcohol testing procedures, you may contact the Human Resources Manager to obtain additional information.</p>
<b>Section 2 – Persons Subject to Testing</b>	
<b>2.1 Persons Subject to Testing</b>	<p>All applicants and employees are subject to testing whose job duties include working on safety-sensitive vehicles or performing safety-sensitive functions.</p>
<b>2.2 Safety Sensitive Vehicles</b>	<p>The following types of vehicles are classified as commercial motor vehicles and may be used in safety-sensitive functions:</p> <ul style="list-style-type: none"> <li>• Have a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or</li> <li>• Have a gross vehicle weight rating or gross vehicle weight of 26,0001 or more pounds whichever is greater; or</li> <li>• Are designed to transport 16 or more passengers, including the driver; or</li> <li>• Are of any size and are used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. § 5103(b)), and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 C.F.R part 172, subpart F).</li> </ul>
<b>2.3 Safety-Sensitive Functions</b>	<p>All time from the time a driver begins to work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work. The following functions are considered safety-sensitive:</p> <ul style="list-style-type: none"> <li>• All time at a city plant, terminal, facility, or other property, or on any public property,</li> <li>• All time waiting to be dispatched, unless the driver has been relieved from duty by the employer;</li> <li>• All time inspecting equipment as required by 49 C.F.R. § 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;</li> <li>• All time spent at the driving controls of a commercial motor vehicle in operation;</li> <li>• All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 C.F.R. § 393.76);</li> <li>• All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and</li> </ul>

- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle. 49 C.F.R. § 382.107.

**Section 3 – Types of Tests**

**3.1 Pre-Employment Testing**

**3.1.1 Applicants and Employees Seeking a Transfer**

All applicants, including current employees seeking a transfer, applying for a position where duties include performing safety-sensitive duties described above, will be required to take a drug test prior to the first time a driver performs a safety-sensitive function for the City, but only after a conditional offer of employment has been made. No applicant will perform safety-sensitive functions unless the driver has received a controlled substance test result from the Medical Review Officer (“MRO”) indicating a verified test result of .02 or less Blood Alcohol Content (“BAC”).

**3.1.2 Previous and Current Employer Testing History**

The City will conduct prior drug and alcohol checks of applicants for employment to drive a commercial motor vehicle. Applicants must execute a consent form authorizing the City to obtain the required information. The City will obtain (pursuant to the applicant’s written consent) information on the applicant’s alcohol test with a concentration result of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding three (3) years which are maintained by the applicant’s previous employers. The City will obtain all information concerning the applicant which is maintained by the applicant’s previous employers within the preceding three (3) years pursuant to DOT controlled substance and alcohol testing regulations. The City will review such records, if feasible, prior to the first time a driver performs safety-sensitive functions.

The City will also conduct a full query of the Federal Motor Carrier Safety Administration’s (FMCSA) Clearinghouse for all candidates. If the full query reveals that the Clearinghouse has information about resolved or unresolved drug and alcohol program violations by a candidate the driver will not be permitted to perform safety-sensitive functions, including the operation of a Commercial Motor Vehicle and may have their conditional offer of employment rescinded.

**3.2 Post-Accident Testing**

**3.2.1 Definition of Accident**

An incident involving a commercial motor vehicle in which there is either a fatality, bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or a vehicle being required to be towed from the scene. The term “accident” does not include an occurrence involving only boarding and alighting from a stationary motor vehicle; an occurrence involving only the loading or unloading of cargo; or an occurrence in the course of the operation of a passenger car or a multipurpose passenger vehicle unless the vehicle is transporting passengers for hire or hazardous materials of a type and quantity that require the motor vehicle to be marked or placarded in accordance with federal regulations.

### **3.2.2 Required Testing**

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, the City will test each surviving driver for controlled substances and alcohol when the following occurs:

- The accident involves a fatality; or
- The driver receives a citation for a moving traffic violation from the accident and an injury is treated away from the accident scene; or
- The driver receives a citation for a moving traffic violation from the accident and a vehicle is required to be towed from the accident scene.

The following chart summarizes when DOT post-accident testing needs to be conducted:

<b>Type of accident involved</b>	<b>Citation issued to the driver?</b>	<b>Test must be performed by City</b>
i. Human fatality	Yes	Yes
	No	Yes
ii. bodily injury with immediate medical treatment away from the scene	Yes	Yes
	No	No
iii. Disabling damage* to any motor vehicle requiring tow away	Yes	Yes
	No	No

\*Definition of disabling damage can be found in Section 14 of this policy.

A driver subject to post-accident testing must remain readily available, or the driver will be deemed to have refused to submit to testing. This requirement to remain ready for testing does not preclude a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary medical care.

### **3.2.3 Post-Accident Controlled Substance Testing**

Drivers are required to submit a urine sample for post-accident controlled substance testing as soon as possible. If the driver is not tested within thirty-two (32) hours after the accident, the City will cease its attempts to test the driver and prepare and maintain on file a record stating why the test was not promptly administered.

### **3.2.4 Post-Accident Alcohol Testing**

Drivers are required to submit to post-accident alcohol testing as soon as possible. After an accident, consuming alcohol is prohibited until the driver is tested. If the driver is not tested within two (2) hours after the accident, the City will prepare and maintain on file a record stating why the test was not administered within that time. If eight (8) hours have elapsed since the accident and the driver has not submitted to an alcohol test, the City will cease its attempts to test the driver and prepare and maintain on file a record stating why

	<p>the test was not administered.</p> <p>The City may accept the results of a blood or breath test in place of an alcohol test and urine test for the use of controlled substances if:</p> <ul style="list-style-type: none"> <li>• The tests are conducted by federal, state, or local officials having independent authority for the test, and</li> <li>• The tests conform to applicable federal, state, or local testing requirements, and</li> <li>• The test results can be obtained by the City.</li> </ul> <p>Whenever such a test is conducted by a law enforcement officer, the driver must contact the City and immediately report the existence of the test, providing the name, badge number, and telephone number of the law enforcement officer who conducted the test.</p>
<p><b>3.3 Random Testing</b></p>	<p>Every driver will be subject to unannounced alcohol and controlled substance testing on a random selection basis. Drivers will be selected for testing by use of a scientifically valid method under which each driver has an equal chance of being selected each time selections are made. These random tests will be conducted throughout the calendar year. Each driver who is notified of selection for random testing must cease performing safety-sensitive functions and report to the designated test site immediately. It is mathematically possible drivers may be selected and tested more than once, and others not at all.</p> <p>If a driver is selected for a random test while he or she is absent, on leave, or away from work, that driver may be required to undergo the test when he or she returns to work.</p> <p>The City follows the DOT Federal Motor Carrier Safety Administration requirements for minimum testing rates. These minimum testing rates are subject to change by the DOT, without notice. For 2020, the minimum testing rates are at least fifty percent (50%) of the average number of drivers must be tested for controlled substances each year and at least ten percent (10%) of the average number of drivers must be tested for alcohol each year.</p>
<p><b>3.4 Reasonable Suspicion Testing</b></p>	<p><b><u>3.4.1 Definition of Reasonable Suspicion</u></b></p> <p>A belief a driver has engaged in conduct prohibited by the DOT controlled substance and alcohol testing regulations, except when related solely to the possession of alcohol, based on specific contemporaneous, articulable observations made by a supervisor or City official who has received appropriate training concerning the appearance, behavior, speech or body odors of the driver. The determination of reasonable suspicion will be made in writing on a Reasonable Suspicion Record Form during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy. In the case of a controlled substance, the observations may include indications of the chronic and withdrawal effects of a controlled substance.</p> <p><b><u>3.4.2 Observation</u></b></p> <p>The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test will be based on "specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the</p>

	<p>driver.” In the case of controlled substances, the observations may include indications of the chronic and withdrawal effects of a controlled substance.</p> <p>The required observations for reasonable suspicion testing will be made by a supervisor or other person designated by the City who has received appropriate training in identification of actions, appearance, and conduct of a driver, which are indicative of the use of alcohol or controlled substance. These observations leading to an alcohol or controlled substance test, will be reflected in writing and signed by the supervisor who made the observations. The record will be retained by the City. The person who makes the determination that reasonable suspicion exists to conduct testing will not be the person conducting the testing, which shall instead be conducted by another qualified person.</p> <p><b><u>3.4.3 Alcohol Testing</u></b></p> <p>Alcohol testing is authorized only if the observations are made during, just before, or just after the driver has ceased performing such functions. If a reasonable suspicion alcohol test is not administered within two (2) hours following the determination of reasonable suspicion, the City will prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a reasonable suspicion alcohol test is not administered within eight (8) hours following the determination of reasonable suspicion, the City will prepare and maintain on file a record stating the reasons the alcohol test was not administered, and will cease attempts to conduct the alcohol test.</p> <p><b><u>3.4.4 Employees Should Not Report to Work While Under the Influence</u></b></p> <p>Notwithstanding the absence of a reasonable suspicion test, no driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol use, nor will the City permit the driver to perform or continue to perform safety-sensitive functions until: (1) an alcohol test is administered and the driver’s alcohol concentration is less than .02; or (2) twenty-four (24) hours have elapsed following the determination of reasonable suspicion.</p>
<p><b>3.5 Return-to-Duty Testing</b></p>	<p>The City reserves the right to impose discipline, up to and including discharge, against drivers who violate applicable DOT regulations or this policy, subject to applicable personnel policy and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers for a first positive test result.</p> <p>Should the City consider reinstatement of a DOT covered driver, the driver must undergo a Substance Abuse Professional (“SAP”) evaluation and participate in any prescribed education/treatment, and successfully complete a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP determines if the driver has completed the education/treatment as prescribed.</p> <p>The controlled substance test will be conducted under direct observation.</p>

<p><b>3.6 Follow-Up Testing</b></p>	<p>The City reserves the right to impose discipline, up to and including discharge, against drivers who violate applicable DOT regulations or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers.</p> <p>Should the City reinstate a driver following a determination by a Substance Abuse Professional (“SAP”) that the driver is in need of assistance in resolving problems associated with alcohol use and/or use of controlled substance, the City will ensure that the driver is subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency of such follow-up testing will be directed by the SAP, and will consist of at least six (6) tests in the first twelve (12) months following the driver’s return to duty. Follow-up testing will not exceed sixty (60) months from the date of the driver’s return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six tests have been administered, if the SAP determines such test is no longer necessary. The employee is responsible for all costs associated with follow-up tests.</p> <p>Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions, or immediately prior to or after performing safety-sensitive functions.</p>
<p><b>3.7 Clearinghouse Annual Query</b></p>	<p>The Clearinghouse is electronic database containing records of violations of drug and alcohol prohibitions in 49 C.F.R. § 382, Subpart B. In accordance with the FMCSA’s Commercial Driver’s License (CDL) Drug and Alcohol Clearinghouse reporting requirements beginning January 6, 2020,</p> <p>At least once each year, the City will conduct a limited query of the Clearinghouse for each currently employed CDL driver. If the limited query reveals that the Clearinghouse has information about resolved or unresolved drug and alcohol program violations by a candidate or current employee, he or she will be asked to provide electronic consent to a full query of the Clearinghouse (unless he or she has previously provided electronic consent). In the event a full query of the Clearinghouse reveals unresolved violation information for a current employee, the driver will not be permitted to perform safety-sensitive functions, including the operation of a Commercial Motor Vehicle and may be subject to discipline.</p>
<p><b>Section 4 – Cost of Required Testing</b></p>	
<p><b>4.1 Cost</b></p>	<p>The City will pay for the cost of pre-employment, post-accident, random, and reasonable suspicion controlled substance and alcohol testing requested or required of all job applicants and employees.</p> <p>The driver must pay for the cost of all requested confirmatory re-tests, return-to-duty, and follow-up testing.</p>
<p><b>Section 5 – Prohibited Conduct</b></p>	
<p><b>5.1 Prohibited Conduct</b></p>	<p>The following conduct is explicitly prohibited by applicable DOT regulations and therefore constitutes violation of City policy.</p>

<p><b>5.2 Under the influence of alcohol when reporting for duty or while on duty</b></p>	<p>No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater. Drivers reporting for duty or remaining on duty to perform safety-sensitive functions while having an alcohol concentration of 0.02, but less than 0.04, will be removed from duty for at least 24 hours, escorted home, and placed on vacation/PTO leave for hours missed from work.</p>
<p><b>5.3 On-Duty Use of Alcohol</b></p>	<p>No driver may use alcohol while performing safety-sensitive functions.</p>
<p><b>5.4 Pre-Duty Use of Alcohol</b></p>	<p>No driver may perform safety-sensitive functions within four (4) hours after using alcohol. If an employee has had alcohol within four hours they are to notify their supervisors before performing any safety-sensitive functions.</p>
<p><b>5.5 Alcohol Use Following an Accident</b></p>	<p>No driver required to take a post-accident alcohol test may use alcohol for eight (8) hours following the accident, or until the driver undergoes a post-accident alcohol test, whichever occurs first.</p>
<p><b>5.6 Refusal to Submit to a Required Alcohol or Controlled Substance Test</b></p>	<p>No applicant or driver may refuse to submit to pre-employment, post-accident, random, reasonable suspicion or follow-up alcohol or controlled substance testing.</p> <p><b><u>5.6.1 Consequences for Refusal to Test</u></b></p> <p>In the event an applicant or driver does in fact refuse to submit to required alcohol or controlled substance testing, no test will be conducted. Refusal by a driver to submit to controlled substance or alcohol testing will be considered a positive test result, will cause disqualification from performing safety-sensitive functions, and may appear on the driver's permanent record. Drivers who refuse to submit to testing will be subject to discipline, up to and including discharge. In accordance with the FMCSA Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse reporting requirements, beginning January 6, 2020, the City will report a driver's refusal to submit to a DOT test for drug or alcohol use to the Clearinghouse within three business days. If an applicant refuses to submit to pre-employment controlled substance testing, any applicable conditional offer will be withdrawn.</p> <p><b><u>5.6.2 Actions Considered to be Test Refusal</u></b></p> <p>For purposes of this section, a driver is considered to have refused to submit to an alcohol or controlled substance test when the driver:</p> <ul style="list-style-type: none"> <li>• Fails to provide adequate breath for alcohol testing without a valid medical explanation after he or she has received notice of the requirement for breath testing.</li> <li>• Fails to provide adequate urine for controlled substance testing without a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement for urine testing.</li> <li>• Altering or attempting to alter a urine sample or controlled substance test, or substituting or attempting to substitute a urine sample</li> <li>• Fails to report for testing within a reasonable period of time, as determined by the City.</li> </ul>

	<ul style="list-style-type: none"> <li>• Fails to remain at a testing site until testing is complete.</li> <li>• In the case of directly observed or monitored collection, fails to permit observation or monitoring.</li> <li>• Fails or declines to take a second test as required by the City and/or collector.</li> <li>• Fails to undergo a medical examination as directed by the City pursuant to federal law.</li> <li>• Refuses to complete and sign the alcohol testing form, to provide a breath or saliva sample, to provide an adequate amount of breath, or otherwise cooperate in any way that prevents the completion of the testing process.</li> <li>• Engages in conduct that clearly obstructs the test process.</li> </ul>
<b>5.7 Altering or Attempting to Alter a Urine Sample or Breath Test</b>	A driver altering or attempting to alter a urine sample or controlled substance test, or substituting or attempting to substitute a urine sample, will be subject to providing a specimen under direct observation. Both specimens will be subject to laboratory testing. In such case, the employee may be subject to immediate discharge of employment, and any job offer made to an applicant will be immediately withdrawn.
<b>5.8 Controlled Substance Use</b>	<p>No driver may report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the driver in writing the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle. Drivers must forward this information regarding therapeutic controlled substance use to the City immediately after receiving any such advice.</p> <p><b><u>5.8.1 Medical Marijuana and/or Cannabis Prescription</u></b></p> <p>Having a medical marijuana card and/or a cannabis prescription from a physician does not allow anyone to use or possess that drug in the City's workplace. The federal government still classifies cannabis as an illegal drug. There is no acceptable concentration of marijuana metabolites in the urine or blood of an employee who performs safety-sensitive duties for the City. Employees are still subject to being tested under our policies, as well as for being disciplined, up to and including discharge, after testing positive for cannabis while at work.</p>
<b>5.9 Controlled Substance Testing</b>	<p>No driver may report for duty, remain on-duty, or perform a safety-sensitive function if the driver tests positive for controlled substance.</p> <p>In addition to the conduct prohibited by applicable DOT regulations, the City also maintains other applicable policies regarding drug and alcohol that are applicable to all employees. For specifics regarding those requirements, refer to the City's policy for non-DOT related drug and alcohol policy.</p>
<b>Section 6 – Collection and Testing Procedures</b>	
<b>6.1 Definition of Collection Site</b>	A place designated by the City where drivers present themselves for the purpose of providing a specimen of their urine or breath to be analyzed for the presence of alcohol or controlled substances.
<b>6.2 Collection and Testing</b>	Drivers are required to report immediately upon notification to the collection site. For random tests conducted off site, employees may use a City vehicle to drive to

	<p>the collection site. Drivers will be expected to provide a photo ID card for identification to the collection staff. All drivers will be expected to cooperate with collection site personnel requests to remove any unnecessary outer garments such as coats, sweaters, or jackets, and will be required to empty their pockets. Collection personnel will complete a Federal Custody and Control Form (“CCF”), which drivers providing a sample will sign as well.</p>
<p><b>6.3 Alcohol Testing</b></p>	<p>Employees will be tested for alcohol just before, during, or immediately following performance of a safety-sensitive function. If a driver is also taking a DOT controlled substance test, generally speaking, the alcohol test is completed before the urine collection process begins. Screening tests for alcohol concentration will be performed utilizing a non-evidential screening device included by the National Highway Traffic Safety Administration on its conforming products list (e.g., a saliva screening device) or an evidential breath testing device (“EBT”) operated by a trained breath alcohol technician (“BAT”) at a collection site. An alcohol test usually takes approximately 15 minutes if the result is negative. If a driver’s first attempt is positive (with an alcohol concentration of .02 or greater), the driver will be asked to wait at least 15 minutes and then be tested again. The driver may not eat, drink or place anything in his/her mouth (e.g., cigarette, chewing gum) during this time. All confirmation tests will be conducted in a location that affords privacy to the driver being tested, unless unusual circumstances (e.g., when it is essential to conduct a test outdoors at the scene of an accident) make it impracticable to provide such privacy. Any results less than 0.02 alcohol concentration is considered a “negative” test result.</p> <p>If the driver attempts and fails to provide an adequate amount of breath, he/she will be referred to a physician to determine if the driver’s inability to provide a specimen is genuine or constitutes a refusal to test. Alcohol test results are reported directly to the City by the collection site staff.</p>
<p><b>6.4 Controlled Substance Testing</b></p>	<p>The City will use a “split urine specimen” collection procedure for controlled substance testing. Collection of urine specimens for controlled substance testing will be conducted by an approved collector, and will be conducted in a setting and manner to ensure the driver’s privacy.</p> <p><b><u>6.4.1 Procedure</u></b></p> <p>Controlled substance testing generally takes about 15 minutes. At the collection site, the driver will be given a sealed container and must provide at least 45 ml of urine for testing. Once the sample is provided the collection personnel will check the temperature and color and look for signs of contamination. The urine is then split into two separate specimen containers (A, or “primary,” and B, or “split”) with identifying labels and security seals affixed to both. The collection facility will be responsible for maintaining a proper chain of custody for delivery of the sample to a DHHS-certified laboratory for analysis. The laboratory will retain a sufficient portion of any positive sample for testing and store that portion in a scientifically-acceptable manner for a minimum 365-day period.</p> <p><b><u>6.4.2 Failure to Provide Sufficient Sample</u></b></p> <p>If an employee fails to provide a sufficient amount of urine to permit a controlled substance test (45 milliliters of urine), the collector will discard the insufficient specimen, unless there is evidence of tampering with that specimen. The</p>

collector will urge the driver to drink up to 40 ounces of fluid, distributed reasonably over a period of up to three hours, or until the driver has provided a sufficient urine specimen, whichever occurs first. If the driver has not provided a sufficient specimen within three hours of the first unsuccessful attempt, the collector will cease efforts to attempt to obtain a specimen. The driver must then obtain, within five calendar days, an evaluation from a licensed physician, acceptable to the MRO, who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. If the licensed physician concludes the driver has a medical condition, or with a high degree of probability could have, precluded the driver from providing a sufficient amount of urine, the City will consider the test to have been canceled. If a licensed physician cannot make such a determination, the City will consider the driver to have engaged in a refusal to test, and will take appropriate disciplinary action under this policy.

**6.4.3 Test and Confirmatory Retest Process**

The primary specimen is used for the first test. If the test is negative, it is reported to the MRO who then reports the result, following a review of the CCF Form for compliance, to the City. If the initial result is positive or non-negative, a "confirmatory retest" will be conducted on the primary specimen. If the confirmatory re-test is also positive, the result will be sent to the MRO. The MRO will contact the driver to verify the positive result. If the MRO is unable to reach the driver directly, the MRO must contact the City who will direct the driver to contact the MRO.

**Section 7 – Test Results**

**7.1 Review of Test Results**

The MRO is a licensed physician with knowledge and clinical experience in substance abuse disorders, and is responsible for receiving and reviewing laboratory results of the controlled substances test as well as evaluating medical explanations for certain drug test results. Prior to making a final decision to verify a positive test result, the MRO will give the driver or the job applicant an opportunity to discuss the test result, typically through a phone call. The MRO, or a staff person under the MRO's supervision, will contact the individual directly, on a confidential basis, to determine whether the individual wishes to discuss the test result.

**7.1.1 Employee or Job Applicant May Discuss Test Result with MRO**

If the employee or job applicant wishes to discuss the test result:

- The individual may be required to speak and/or meet with the MRO, who will review the individual's medical history, including any medical records provided.
- The individual will be afforded the opportunity to discuss the test results and to offer any additional or clarifying information which may explain the positive test result. If the employee or job applicant believes a mistake was made at the collection site, at the labor, on a chain-of-custody form, or that the drug test results are caused by lawful substance use, the employee should tell the MRO.
- If there is some new information which may affect the original finding, the MRO may request the laboratory to perform additional testing on the original specimen in order to further clarify the results; and
- A final determination will be made by the MRO that the test is either positive or

	<p>negative, and the individual will be so advised.</p> <p>If the MRO upholds the positive, adulterated or substituted drug determination, that test result will be provided to the City. There is no opportunity to explain a positive alcohol test provided in the DOT regulations.</p> <p><b><u>7.1.2 Employee or Applicant May Request Testing of Split Specimen</u></b></p> <p>The driver can request the MRO to have the split specimen (the second “B” container) tested at the driver’s expense. This includes all costs that may be associated with the re-test. There is no split specimen testing for an invalid result. The driver has 72 hours after they have been notified of the positive result to make this request. If the employee requests an analysis of the split specimen, the MRO will direct the laboratory to send the split specimen to another certified laboratory for analysis.</p> <p>If an employee has not contacted the MRO within 72 hours, the employee may present information documenting that serious injury, illness, lack of actual notice of the verified test result, inability to contact the MRO, or other circumstances unavoidably prevented the employee from making timely contact. If the MRO concludes there is legitimate explanation for the employee’s failure to contact within 72 hours, the MRO will direct the analysis of the split specimen.</p> <p>If the results of the split specimen are negative, the City may pay for all costs associated with the rest and there will be no adverse action taken against the employee or job applicant.</p>
<b>Section 8 – Notification of Test Results</b>	
<b>8.1 Employees</b>	The City will notify a driver of the results of random, reasonable suspicion, and post-accident tests for controlled substance if the test results are verified positive, and will inform the driver which controlled substance or substances were verified as positive. Results of alcohol tests will be immediately available from the collection agent.
<b>8.2 Right to Confirmatory Retest</b>	Within seventy-two (72) hours after receiving notice of a positive controlled substance test result, an applicant or driver may request through the MRO a re-analysis (confirmatory retest) of the driver’s split specimen. Action required by federal regulation as a result of a positive controlled substance test (e.g., removal from safety-sensitive functions) will not be stayed during retesting of the split specimen. If the result of the confirmatory retest fails to reconfirm the presence of the controlled substance(s) or controlled substance metabolite(s) found in the primary specimen, or if the split specimen is unavailable, inadequate for testing or untestable, the MRO will cancel the test.
<b>8.3 Dilute Specimens</b>	Dilute Negatives Creatinine concentration of specimen is equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL. If the City receives information that a driver has provided a dilute negative specimen, the City will direct a recollection, pursuant to the MRO’s direction, under direct observation.
<b>Section 9 – Consequences for Job Applicants Engaging in Prohibited Conduct</b>	
<b>9.1 Consequences for</b>	Any applicable conditional offer of employment will be withdrawn from a job

<b>Job Applicants</b>	applicant or employee seeking a transfer who refuses to be tested, or tests positive for controlled substance pursuant to this policy.
<b>Section 10 – Consequences for Employees Engaging in Prohibited Conduct</b>	
<b>10.1 Consequences for Employees</b>	Drivers who are known to have engaged in prohibited behavior with regard to alcohol misuse or use of controlled substance, as defined earlier in this policy, are subject to the following consequences listed in this section.
<b>10.2 Removal from Safety-Sensitive Functions</b>	No driver may perform safety-sensitive functions, including driving a commercial motor vehicle, if the driver has engaged in conduct prohibited by federal law.  A driver who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 or tests positive under this policy (alcohol concentration over 0.04 or positive test for other prohibited substances) must be immediately removed from safety sensitive duties, and escorted home (the driver should not drive his/her personal vehicle home). The driver will then be placed on vacation/PTO, for hours missed from work. The driver may not perform safety-sensitive functions for the City, including driving a commercial motor vehicle, until the start of the driver's next regularly scheduled duty, but not less than twenty-four (24) hours following administration of the test.
<b>10.3 Notification of Resources Available</b>	The City will advise each driver who has engaged in conduct prohibited by federal law, or who has a positive alcohol or controlled substance test, of the resources available to the driver, including but not limited to the City's EAP, in evaluating and resolving problems associated with the misuse of alcohol and use of a controlled substance, including the names, addresses, and telephone numbers of Substance Abuse Professionals and counseling and treatment programs. The City will provide a SAP listing in writing at no cost to the driver.
<b>10.4 Discipline, up to and including discharge</b>	The City reserves the right to impose whatever discipline, up to and including discharge, the City deems appropriate at its sole discretion, up to and including termination for a first occurrence, against drivers who violate applicable DOT regulations or this policy, subject to applicable personnel policies and collective bargaining agreements. Except as otherwise required by law, the City is not obligated to reinstate or requalify such drivers following a first positive confirmed controlled substance or alcohol test result.
<b>10.5 Evaluation and Return to Duty Testing</b>	Should the City wish to consider reinstatement of a driver who engaged in conduct prohibited by federal law and/or who had a positive alcohol or controlled substance test, the driver must undergo a SAP evaluation, participate in any prescribed education/treatment, and successfully complete return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02 and/or a controlled substance test with a verified negative result, before the driver returns to duty requiring the performance of a safety-sensitive function. The SAP will determine what assistance, if any, the driver needs in resolving problems associated with alcohol misuse and controlled substance use and will ensure the driver properly follows any rehabilitation program and submits to unannounced follow-up alcohol and controlled substance testing.

<p><b>10.6 Follow-up Testing</b></p>	<p>If the driver passes the return-to-duty test, he/she will be subject to unannounced follow-up alcohol and/or controlled substance testing. The number and frequency for such follow-up testing will be as directed by the SAP and will consist of at least six tests in the first twelve months. These tests will be conducted under direct observation.</p>
<p><b>10.7 Refusal to Test</b></p>	<p>All drivers and applicants have the right to refuse to take a required alcohol and/or controlled substance test. If an employee refuses to undergo testing, the employee will be considered to have tested positive and may be subject to disciplinary action, up to and including termination. Refer to Refusing to Test provided earlier in this policy.</p>
<p><b>10.8 Responsibility for Cost of Evaluation and Rehabilitation</b></p>	<p>Drivers will be responsible for paying the cost of evaluation and rehabilitation (including services provided by a Substance Abuse Professional) recommended or required by the City or DOT regulations, except to the extent that such expense is covered by an applicable employee benefit plan or imposed on the City pursuant to a collective bargaining agreement.</p>
<p><b>10.9 Reporting to the FMCSA's CDL Drug and Alcohol Clearinghouse</b></p>	<p>In accordance with the FMCSA's Commercial Driver's License (CDL) Drug and Alcohol Clearinghouse reporting requirements, the City will report the following information to the Clearinghouse within three business days:</p> <ul style="list-style-type: none"> <li>• A DOT alcohol confirmation test result with an alcohol concentration of 0.04 or greater;</li> <li>• A negative DOT return-to-duty test result;</li> <li>• The driver's refusal to submit to a DOT test for drug or alcohol use;</li> <li>• An "Actual knowledge" violation; and</li> <li>• A report that the driver successfully completed all DOT follow-up tests as ordered by an SAP.</li> </ul>
<p><b>Section 11 – Loss of CDL License for Traffic Violations in Commercial and Personal Vehicles</b></p>	
<p><b>11.1 Loss of License</b></p>	<p>The DOT has strict regulations impacting when CDL license holders can lose their CDL for certain traffic offenses in a commercial or personal vehicle. Employees are required to notify their supervisor immediately if the status of their CDL license changes in anyway.</p>
<p><b>Section 12 – Maintenance and Disclosure of Records</b></p>	
<p><b>12.1 Record Retention</b></p>	<p>Except as required or authorized by law, the City will not release driver's information that is contained in records required to be maintained by this policy or FMCSA and DOT regulations. Beginning in 2020, the City will be required to query and report to the agency's CDL Drug and Alcohol Clearinghouse prior to hiring new drivers, will conduct annual checks of existing CDL-drivers, and will report certain violations of the DOT drug and alcohol testing program for holders of CDLs. In addition, a driver is entitled, upon written request, to obtain copies of any records pertaining to the driver's use of alcohol or a controlled substance, including any records pertaining to his or her alcohol or controlled substance tests.</p>

### Section 13 - Definitions

<b>Accident</b>	See Section 3.2.1 "Definition of Accident"
<b>Alcohol Concentration (or Content)</b>	The alcohol on a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.
<b>Alcohol Use</b>	The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
<b>Applicant</b>	A person applying to drive a commercial motor vehicle.
<b>BAT or Breath Alcohol Technician</b>	An individual who instructs and assists individuals in the alcohol testing process and operates an EBT. See Section 6.3 "Alcohol Testing."
<b>City</b>	City of Winona including all job sites, facilities, offices, buildings, structures, equipment, vehicles and parking areas, whether owned, leased, used or under the control of the City of Winona.
<b>Clearinghouse</b>	See Section 3.7 "Clearinghouse Annual Query" and Section 10.9 "Reporting to the FMCSA's CDL Drug and Alcohol Clearinghouse"
<b>Collection Site</b>	See Section 6.1 "Definition of Collection Site"
<b>Commercial Motor Vehicle</b>	See Section 2.2 "Safety Sensitive Vehicles"
<b>Confirmation (or Confirmatory) Test</b>	For alcohol testing, a second test, following a screening test with a result of 0.02 grams or greater of alcohol per 210 liters of breath, that provides quantitative data of alcohol concentration. For controlled substance testing, "Confirmation (or Confirmatory) Test" means a second analytical procedure to identify the presence of a specific controlled substance or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy.
<b>Controlled Substance</b>	Marijuana, amphetamines, opioids, (including heroin), phencyclidine (PCP), cocaine, and any of their metabolites are included within this definition.
<b>DOT</b>	The United States Department of Transportation.
<b>DHHS</b>	The Department of Health & Human Services or any designee of the Secretary, Department of Health & Human Services.
<b>Disabling Damage</b>	Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs, including damage to motor vehicles that could have been driven, but would have been further damaged if so driven. Disabling damage does not include damage which can be remedied temporarily at the scene of the accident without special tools or parts, tire disablement without other damage even if no spare tire is available, headlight or tail light damage or damage to turn signals, horn or windshield wipers which

	make them inoperative. See section 3.2.2 "Required Testing" following an accident.
<b>Driver</b>	Any person who operates a commercial motor vehicle. For purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.
<b>Drug</b>	Has the same meaning as "controlled substance."
<b>Employee seeking a transfer</b>	Refers to an employee who is not subject to DOT regulations seeking a transfer to a position that will subject them to DOT regulations in the sought after position.
<b>EBT</b>	Evidential Breath Testing Device. See Section 6.3 "Alcohol Testing"
<b>MRO or Medical Review Officer</b>	A licensed physician responsible for receiving and reviewing laboratory results generated by a controlled substance testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
<b>Positive Test Result</b>	A finding of the presence of alcohol or controlled substance, or their metabolites, in the sample tested in levels at or above the threshold detection levels established by applicable law.
<b>Reasonable Suspicion</b>	See Section 3.4.1 "Definition of Reasonable Suspicion"
<b>Safety-Sensitive Function</b>	See Section 2.3 "Safety Sensitive Functions"
<b>Screening Test (also known as Initial Test)</b>	In alcohol testing, an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system.  In controlled substance testing, "Screening Test" means an immunoassay screen to eliminate "negative" urine specimens from further consideration. See Section 6.3 "Alcohol Testing."
<b>SAP or Substance Abuse Professional</b>	A licensed physician, licensed or certified psychologist, licensed or certified social worker, licensed or certified employee assistance professional, or licensed or certified addiction counselor (certified by the National Association of Alcoholism and Controlled Substance Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substance-related disorders.

# REQUEST FOR COUNCIL ACTION

Agenda Section: **New Business**

Originating Department:

Date:

No: **5**

**City Engineer**

**1/21/2020**

Item: **Huff Street-TH61 Traffic Signal and Pedestrian Facility  
Improvements Certification of Completion and Final Estimate**

No. **5.7**

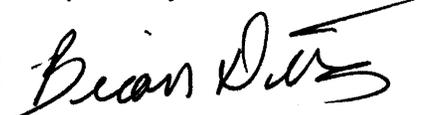
## SUMMARY OF REQUESTED ACTION:

Honorable Mayor and City Council:

### CERTIFICATION OF COMPLETION

This is to certify that the above-referenced work performed by Pember Companies, Inc. of Menomonie, WI, under its contract with the City of Winona, has been completed in compliance with the plans and specification governing the work and authorizing the final estimate in the amount of \$664,762.82.

Respectfully submitted,



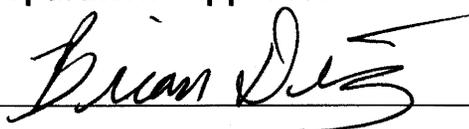
Brian DeFrang  
City Engineer

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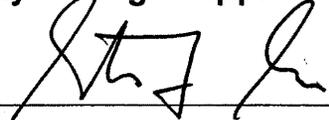
The attached resolution approves the project and authorizes the final estimate.

If the Council concurs, a motion to approve the attached resolution would be in order.

Department Approval:



City Manager Approval:



**RESOLUTION ACCEPTING THE WORK,  
AUTHORIZING THE FINAL ESTIMATE, AND ORDERING COSTS  
ON LOCAL IMPROVEMENTS THAT HAVE BEEN PREVIOUSLY  
ASSESSED**

Resolution Number 9

**WHEREAS**, a contract has been let for the following local improvements:

***Huff Street-TH61 Signal and Pedestrian Facility  
Improvements Project***

and

**WHEREAS**, the original contract price for these improvements is \$573,903.75 and

**WHEREAS**, the contract has been completed according to the plans and specifications; and

**WHEREAS**, the final estimate for such improvements is \$664,762.82.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Winona, Minnesota:

1. The City Council hereby accepts the work.
2. The City Council hereby authorizes the final estimate in the amount of \$664,762.82.

Passed and adopted by the City Council of the City of Winona, Minnesota at a meeting thereof held this 21<sup>st</sup> day of January, 2020.

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*Mark Peterson, Mayor*

Attest:

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*Monica Hennessy Mohan, City Clerk*



Owner: City of Winona, 207 Lafayette St., Winona, MN 55987	Date: December 20, 2019
For Period: 11/09/2019 - 12/20/2019	Request No: 6 (Final)
Contractor: Pember Companies, Inc., N4449 469th St, Menomonie, WI 54751	

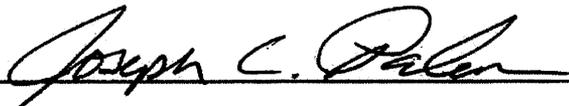
**CONTRACTOR'S REQUEST FOR PAYMENT**

HUFF STREET-TH 61 TRAFFIC SIGNAL & PEDESTRIAN FACILITY IMPROVEMENTS  
 STANTEC PROJECT NO. 193804325  
 SP 8505-42, SAP 176-108-014

SUMMARY

1	Original Contract Amount		\$	<u>573,903.75</u>
2	Change Order - Addition	\$	<u>98,739.29</u>	
3	Change Order - Deduction	\$	<u>0.00</u>	
4	Revised Contract Amount		\$	<u>672,643.04</u>
5	Value Completed to Date		\$	<u>664,762.82</u>
6	Material on Hand		\$	<u>0.00</u>
7	Amount Earned		\$	<u>664,762.82</u>
8	Less Retainage 5%		\$	<u>0.00</u>
9	Subtotal		\$	<u>664,762.82</u>
10	Less Amount Paid Previously		\$	<u>631,524.68</u>
11	Liquidated damages -		\$	<u>0.00</u>
12	AMOUNT DUE THIS REQUEST FOR PAYMENT NO. <u>6 (Final)</u>		\$	<u>33,238.14</u>

Recommended for Approval by:  
**STANTEC**



Approved by Contractor:  
**PEMBER COMPANIES, INC.**  


Approved by Owner:  
**CITY OF WINONA**

  
 City Engineer

Specified Contract Completion Dates:  
 Substantial Completion: July 26, 2019  
 Final Completion: August 9, 2019

Date: 1/7/20

No.	Material No.	Item	Unit	Contract Quantity	Unit Price	Quantity to Date	Amount to Date
<b>BASE BID</b>							
1	2011.601	AS BUILT	LUMP SUM	1	\$5,100.00	1.00	\$5,100.00
2	2021.501	MOBILIZATION	LUMP SUM	1	\$41,425.00	1.00	\$41,425.00
3	2101.501	CLEARING AND GRUBBING	LUMP SUM	1	\$2,000.00	1.00	\$2,000.00
4	2102.503	PAVEMENT MARKING REMOVAL	LIN FT	330	\$1.35	306.00	\$413.10
5	2104.502	REMOVE PIPE APRON	EACH	2	\$165.00	2.00	\$330.00
6	2104.502	REMOVE LIGHT POLE	EACH	1	\$1,945.00	2.00	\$3,890.00
7	2104.502	REMOVE SIGN	EACH	2	\$105.00	2.00	\$210.00
8	2104.502	REMOVE SIGN TYPE C	EACH	7	\$105.00	6.00	\$630.00
9	2104.502	SALVAGE SIGN TYPE C	EACH	6	\$105.00	3.00	\$315.00
10	2104.503	SAWING BITUMINOUS PAVEMENT (FULL DEPTH)	LIN FT	1203	\$3.45	1,198.00	\$4,133.10
11	2104.503	REMOVE CURB AND GUTTER	LIN FT	423	\$5.30	415.00	\$2,199.50
12	2104.503	REMOVE GUARDRAIL	LIN FT	53	\$25.00	53.00	\$1,325.00
13	2104.503	SALVAGE PIPE CULVERT	LIN FT	20	\$17.00	0.00	\$0.00
14	2104.518	REMOVE CONCRETE WALK	SQ FT	1704	\$1.25	1,697.00	\$2,121.25
15	2104.504	REMOVE BITUMINOUS PAVEMENT	SQ YD	819	\$6.55	714.50	\$4,679.98
16	2104.507	REMOVE AGGREGATE (P)	CU YD	21	\$56.60	21.00	\$1,188.60
17	2106.507	EXCAVATION - COMMON (P)	CU YD	432	\$43.70	432.00	\$18,878.40
18	2106.507	COMMON EMBANKMENT (CV) (P)	CU YD	1508	\$22.50	1,508.00	\$33,930.00
19	2211.507	AGGREGATE BASE (CV) CLASS 5	CU YD	433	\$64.60	433.00	\$27,971.80
20	2232.504	MILL BITUMINOUS SURFACE (2.0")	SQ YD	1608	\$7.70	1,612.00	\$12,412.40
21	2301.602	DRILL AND GROUT REINFORCEMENT BAR (EPOXY COATED)	EACH	11	\$13.50	11.00	\$148.50
22	2360.509	TYPE SP 9.5 WEARING COURSE MIXTURE (2,C)	TON	38	\$148.50	36.00	\$5,346.00
23	2360.509	TYPE SP 12.5 WEARING COURSE MIXTURE (3,B)	TON	456	\$111.50	456.00	\$50,844.00
24	2360.509	TYPE SP 12.5 NON WEARING COURSE MIXTURE (3,B)	TON	45	\$148.50	45.00	\$6,682.50
25	2451.507	FINE AGGREGATE BEDDING (CV)	CU YD	17	\$40.00	17.00	\$680.00
26	2501.502	12" CS PIPE APRON	EACH	2	\$365.00	2.00	\$730.00
27	2501.502	15" RC PIPE APRON	EACH	1	\$930.00	1.00	\$930.00
28	2501.502	24" RC SAFETY APRON	EACH	2	\$1,130.00	2.00	\$2,260.00
29	2501.503	INSTALL PIPE CULVERT	LIN FT	20	\$33.50	0.00	\$0.00
30	2502.503	12" CS PIPE DRAIN	LIN FT	28	\$48.50	43.00	\$2,085.50
31	2503.503	12" RC PIPE SEWER DESIGN 3006 CLASS III	LIN FT	99	\$65.25	81.50	\$5,317.88
32	2503.503	15" RC PIPE SEWER DESIGN 3006 CLASS III	LIN FT	36	\$72.30	9.50	\$686.85
33	2503.503	24" RC PIPE SEWER DESIGN 3006 CLASS III	LIN FT	50	\$91.10	37.50	\$3,416.25
34	2503.602	CONNECT TO EXISTING STORM SEWER	EACH	3	\$725.00	3.00	\$2,175.00
35	2504.602	ADJUST VALVE BOX	EACH	1	\$205.00	0.00	\$0.00
36	2506.502	CASTING ASSEMBLY	EACH	4	\$800.00	4.00	\$3,200.00
37	2506.503	CONSTRUCT DRAINAGE STRUCTURE DESIGN F	LIN FT	6.6	\$508.00	10.15	\$5,156.20
38	2506.503	CONSTRUCT DRAINAGE STRUCTURE DESIGN 48-4020	LIN FT	5.3	\$474.00	5.40	\$2,559.60
39	2506.503	CONSTRUCT DRAINAGE STRUCTURE DESIGN 60-4020	LIN FT	4.2	\$860.00	4.10	\$3,526.00
40	2521.518	4" CONCRETE WALK	SQ FT	5799	\$4.40	5,995.00	\$26,378.00
41	2521.618	CONCRETE WALK	SQ FT	758	\$11.50	561.25	\$6,454.38
42	2531.503	CONCRETE CURB AND GUTTER DESIGN B624	LIN FT	1015	\$21.00	1,000.50	\$21,010.50
43	2531.618	TRUNCATED DOMES	SQ FT	111	\$45.00	95.00	\$4,275.00
44	2554.503	TRAFFIC BARRIER DESIGN B833B	LIN FT	53	\$53.00	53.00	\$2,809.00
45	2563.601	TRAFFIC CONTROL	LUMP SUM	1	\$11,600.00	1.00	\$11,600.00
46	2563.601	ALTERNATE PEDESTRIAN ROUTE	LUMP SUM	1	\$1,800.00	0.00	\$0.00
47	2564.502	INSTALL SIGN TYPE C	EACH	6	\$345.00	5.00	\$1,725.00
48	2564.618	SIGN TYPE C	SQ FT	62	\$77.00	68.30	\$5,259.10
49	2565.501	EMERGENCY VEHICLE PREEMPTION SYSTEM	LUMP SUM	1	\$6,900.00	1.00	\$6,900.00
50	2565.516	TRAFFIC CONTROL SIGNAL SYSTEM	SYSTEM	1	\$185,000.00	1.00	\$185,000.00
51	2573.502	STORM DRAIN INLET PROTECTION	EACH	3	\$100.00	0.00	\$0.00
52	2573.503	SILT FENCE, TYPE MS	LIN FT	685	\$2.20	527.00	\$1,159.40
53	2573.503	SEDIMENT CONTROL LOG TYPE COMPOST	LIN FT	1737	\$2.60	1,418.00	\$3,686.80
54	2574.508	FERTILIZER TYPE 3	POUND	66	\$1.50	150.00	\$225.00
55	2575.504	SODDING TYPE SALT TOLERANT	SQ YD	893	\$7.10	0.00	\$0.00
56	2575.504	EROSION CONTROL BLANKETS CATEGORY 3N	SQ YD	402	\$3.40	2,200.00	\$7,480.00
57	2575.507	MULCH MATERIAL TYPE 9	CU YD	3	\$251.00	0.00	\$0.00
58	2575.508	SEED MIXTURE 25-141	POUND	5	\$63.00	26.00	\$1,638.00
59	2582.503	4" SOLID LINE MULTI-COMPONENT GROUND IN (WR)	LIN FT	940	\$2.30	1,013.75	\$2,331.63
60	2582.503	24" SOLID LINE MULTI-COMPONENT GROUND IN (WR)	LIN FT	178	\$15.70	175.50	\$2,755.35
61	2582.503	4" DOUBLE SOLID LINE MULTI-COMPONENT GROUND IN (WR)	LIN FT	519	\$4.70	524.25	\$2,463.98
62	2582.518	PAVEMENT MESSAGE PREFORM THERMOPLASTIC GROUND IN	SQ FT	125	\$29.00	125.00	\$3,625.00
63	2582.518	CROSSWALK PREFORM THERMOPLASTIC GROUND IN	SQ FT	786	\$13.80	750.00	\$10,350.00
TOTAL BASE BID							\$566,023.53

**WORK COMPLETED TO DATE - BASE BID:**

**\$566,023.53**

No.	Material No.	Item	Unit	Contract Quantity	Unit Price	Quantity to Date	Amount to Date
<b>Change Order No. 1</b>							
<b>CSAH 44 / West Lake Blvd Items (100% Winona County)</b>							
<b>Resolution of Item 1 – Pay Items</b>							
64	2021.501	Mobilization	LS	1.00	\$1,600.00	1.00	\$1,600.00
65	2563.601	Traffic Control	LS	1.00	\$1,550.00	1.00	\$1,550.00
66	2104.503	Sawing Bituminous Pavement	LF	560.00	\$3.45	560.00	\$1,932.00
67	2104.504	Mill Bituminous Surface (2")	SY	1380.00	\$7.70	1380.00	\$10,626.00
68	2104.504	Remove Bituminous Pavement	SY	432.00	\$6.55	432.00	\$2,829.60
69	2106.507	Excavation - Common	CY	49.50	\$43.70	49.50	\$2,163.15
70	2123.510	Aggregate Base (CV) Class 5	CY	49.50	\$64.60	49.50	\$3,197.70
71	2503.602	Connect to Existing Storm Sewer	EA	1.00	\$725.00	1.00	\$725.00
72	2502.503	6" Perf PVC Drain Tile	LF	210.00	\$45.25	210.00	\$9,502.50
73	2502.503	4" Perf PVC Drain Tile	LF	120.00	\$25.50	120.00	\$3,060.00
74	2531.503	Concrete Curb and Gutter Design B624	LF	534.75	\$21.00	534.75	\$11,229.75
75	2582.503	4" Solid Line Multi-Component Ground IN (WR)	LF	451.75	\$2.30	451.75	\$1,039.03
76	2360.509	Type SP 12.5 Wearing Course Mixture (3,B)	TN	294.94	\$111.50	294.94	\$32,885.81
77	2582.503	4" Double Solid Line Multi-Component Ground In (WR)	LF	414.50	\$4.70	414.50	\$1,948.15
78	2575.504	Erosion Control Blanket 3N	SY	598.00	\$3.40	598.00	\$2,033.20
79	2575.508	Seed Mixture 25-141	LB	7.30	\$63.00	7.30	\$459.90
80	2574.508	Fertilizer Type 3	LB	25.00	\$1.50	25.00	\$37.50
<b>Subtotal (100% Winona County)</b>							<b>\$86,819.29</b>
<b>Resolution of Item 1 – Time and Materials Items for each day</b>							
<b>T&amp;M Work on 7/17/19 – Additional subcut on West Lake Blvd</b>							
81	2123.510	Common Laborers	HR	6.00	\$80.00	6.00	\$480.00
82	2123.510	3.0 CU YD Front End Loader	HR	4.00	\$200.00	4.00	\$800.00
83	2123.510	0.50 CU YD Shovel	HR	4.00	\$184.00	4.00	\$736.00
84	2123.610	Skid Loader	HR	4.00	\$190.00	4.00	\$760.00
<b>Subtotal (100% Winona County)</b>							<b>\$2,776.00</b>
<b>T&amp;M Work on 7/18/19 – Additional subcut on West Lake Blvd</b>							
85	2123.510	Common Laborers (Foreman)	HR	3.00	\$90.00	3.00	\$270.00
86	2123.510	3.0 CU YD Front End Loader	HR	9.00	\$200.00	9.00	\$1,800.00
87	2123.510	10 CU YD Truck	HR	9.00	\$110.00	9.00	\$990.00
88	2123.510	Common Laborers	HR	3.00	\$80.00	3.00	\$240.00
89	2123.510	0.50 CU YD Shovel	HR	1.00	\$184.00	1.00	\$184.00
90	2123.610	Skid Loader	HR	2.00	\$190.00	2.00	\$380.00
<b>Subtotal (100% Winona County)</b>							<b>\$3,864.00</b>
<b>T&amp;M Work on 7/22/19 - Additional subcut and subgrade stabilization on West Lake Boulevard</b>							
91	2123.510	10 CU YD Truck	HR	1.00	\$110.00	1.00	\$110.00
92	2123.510	Common Laborers	HR	2.00	\$80.00	2.00	\$160.00
93	2123.510	0.50 CU YD Shovel	HR	4.00	\$184.00	4.00	\$736.00
<b>Subtotal (100% Winona County)</b>							<b>\$1,006.00</b>
<b>T&amp;M Work on 7/30/19 – Regrading of turn lane used for traffic</b>							
94	2123.510	3.0 CU YD Front End Loader	HR	3.00	\$200.00	3.00	\$600.00
95	2123.510	0.50 CU YD Shovel	HR	4.00	\$184.00	4.00	\$736.00
96	2123.610	Skid Loader	HR	4.00	\$190.00	4.00	\$760.00
<b>Subtotal (100% Winona County)</b>							<b>\$2,096.00</b>
<b>Total Cost Item 1 - CSAH 44/West Lake Blvd (100% Winona County)</b>							<b>\$96,561.29</b>
<b>Resolution of Item 2 – Pay Items</b>							
97	2575.523	Rapid Stabilization Method 3	MGal	3.00	\$726.00	3.00	\$2,178.00
<b>Subtotal (100% City of Winona)</b>							<b>\$2,178.00</b>
<b>CSAH 44 Item #1 Total Cost (100% Winona County)</b>							<b>\$96,561.29</b>
<b>CSAH 44 Item #2 Total Cost (100% City of Winona)</b>							<b>\$2,178.00</b>
<b>Net Change this Change Order</b>							<b>\$98,739.29</b>
<b>Work Completed To Date - Base Bid:</b>							<b>\$566,023.53</b>
<b>Work Completed To Date - Change Order No. 1</b>							<b>\$98,739.29</b>
<b>Total Work Completed To Date</b>							<b>\$664,762.82</b>

**PROJECT PAYMENT STATUS**

OWNER CITY OF WINONA  
 STANTEC PROJECT NO. 193804325  
 CONTRACTOR PEMBER COMPANIES, INC.

**CHANGE ORDERS**

No.	Date	Description	Amount
1	10/31/2019	CSAH 44 / West Lake Blvd	\$98,739.29
<b>Total Change Orders</b>			\$98,739.29

**PAYMENT SUMMARY**

No.	From	To	Payment	Retainage	Completed
1	04/22/2019	05/15/2019	115,566.11	6,082.42	121,648.53
2	05/15/2019	06/14/2019	89,204.78	10,777.41	215,548.30
3	06/14/2019	07/12/2019	101,021.48	16,094.33	321,886.70
4	07/13/2019	08/20/2019	172,323.21	25,163.97	503,279.55
5	08/21/2019	11/08/2019	153,409.10	33,238.14	664,762.82
6	11/09/2019	12/20/2019	33,238.14	\$0.00	664,762.82

**Material on Hand**

Total Payment to Date		\$664,762.82	Original Contract	\$573,903.75
Retainage Pay No. 6		\$0.00	Change Orders	\$98,739.29
Total Amount Earned		\$664,762.82	Revised Contract	\$672,643.04

# REQUEST FOR COUNCIL ACTION

Agenda Section: **Council Concerns**

Originating Department:

Date:

No: 7

City Clerk

01/21/20

Item: **Council Concerns**

No. 7.1

## SUMMARY OF REQUESTED ACTION:

Time is reserved for Council Concerns.

Department Approval:

City Manager Approval:



# REQUEST FOR COUNCIL ACTION

Agenda Section: **Consent Agenda**

Originating Department:

Date:

No: **8**

City Clerk

01/21/20

Item: **Consent Agenda**

No. **8.**

## SUMMARY OF REQUESTED ACTION:

**City Clerk: Item No. 8.1: Approval of Minutes – January 6, 2020**

Minutes of the January 6, 2020 City Council meeting have been distributed. If the minutes are satisfactory, a motion to approve same would be in order.

**City Clerk: Item No. 8.2: Claim against the City by Nathan Woodworth**

Nathan Woodworth has filed a claim against the city for damages to his home due to backed up sewer main. The claim has been forwarded to the League of Minnesota Cities- Insurance Trust, and is on file in the City Clerk's Office.

**City Clerk: Item No. 8.3: Claim against the City by Clara Marcum**

Clara Marcum has filed a claim against the city for damages due to a fall at the Friendship Center. The claim has been forwarded to the League of Minnesota Cities- Insurance Trust, and is on file in the City Clerk's Office.

Department Approval:

City Manager Approval:

