

**CITY OF TWO HARBORS**  
**COMMITTEE OF THE WHOLE/AGENDA MEETING**

April 10, 2023

5:00 p.m.      Call to order.

[M]      Close meeting for the purpose of discussing pending litigation and  
real estate negotiations in accordance with MN Statutes 13D.05.

[M]      Reconvene Committee of the Whole/Agenda Meeting.

Appearances:                      1.

Administrator updates.

Attorney updates.

City Clerk/HR updates.

Finance Director updates.

City Engineer updates.

Other agenda questions or additions.

## TWO HARBORS CITY COUNCIL

### AGENDA

April 10, 2023

6:00 P.M. Call to order regular meeting of the City Council of the City of Two Harbors.

Roll call:

Pledge of Allegiance:

Additions or Changes to the Agenda:

[M] Approval of the Agenda.

*Items may be added to the agenda prior to approval of the agenda. Items brought forth once the agenda has been approved shall be referred to administration and/or committee.*

#### Appearances:

#### Administrative Reports:

#### Committee Reports:

Other.

#### [R] Approving the Consent Agenda Items:

*Items listed on the Consent Agenda are routine in nature and typically do not require discussion. If there is an item on the consent agenda that a councilmember feels warrants discussion, it should be removed from the consent agenda and dealt with individually.*

1. Approving minutes from the March 13 and 27, 2023 Regular City Council meetings.
2. Allowing claims against the City of Two Harbors to be paid on April 11, 2023.
3. Approving payroll for the second half of March, 2023.
4. Accepting the bid from American Engineering Testing in the amount of \$14,800 for geotechnical soil borings for the Liquor Store Project and authorizing the Acting Mayor and Administrator to execute the contract with American Engineering Testing for said services.
5. Authorizing payment to WSB to provide materials testing services for the Wastewater Treatment Plant Project in the amount of \$335.
6. Authorizing payment to Lakehead Constructors in the amount of \$721,541.40 for Pay Application #17 for the Wastewater Treatment Plant Project.

7. Authorizing payment to Bolton & Menk in the amount of \$40,953.35 for professional services for the Wastewater Treatment Plant Project.
8. Accepting the proposal from J& M Displays to provide fireworks materials and display services for Tuesday July 4, 2023 for an amount of \$13,000.
9. Authorizing the Fire Department to submit a grant application to the MN Department of Natural Resources for a Volunteer Rural Fire Department Grant in the amount of \$2,500 for personal protective equipment for wildland firefighting.
10. Authorizing the Fire Department to submit a grant application to the Two Harbors Area Fund in the amount of \$2,500 for personal protective equipment for wildland firefighting.
11. Approving the request of the Fire Chief to allow Casey Fitzpatrick and Ethan Casady to attend the FDIC Conference in Indianapolis.
12. Approving the request of the American Legion to be open on the following Sundays in 2023: July 2, 9, 16, 23 and 30, August 6, 13, 20 and 27 and September 3.
13. Accepting the resignation of Lee Senst from his position on THEDA, with regret, and authorizing a letter of appreciation for his service.
14. Scheduling a special meeting for the purpose of acting as the City Canvassing Board.
15. Declaring third and final reading of Ordinance of the City of Two Harbors, Minnesota Amending Section 2.51 and 2.40 of the Two Harbors City Code as they relate to legal counsel.

**Communications:**

1. A memorandum from Jennifer Selchow, Bolton & Menk, regarding Wastewater Treatment Plant Improvements.

**Unfinished Business:**

Other.

**New Business:**

1. [M] Consider the recommendation of the Planning Commission to declare first reading of an ordinance amending the City Code to replace existing definitions for Hotel and Motel with revised definitions requiring a minimum of three units.
2. [R] Consider accepting the recommendation of Bolton & Menk to award the bid for the Water Treatment Facility Improvements to Lakehead Constructors, Inc. for an amount of \$7,340,209.12 and authorizing Notice of Award.

3. [R] Approving the Settlement Agreement and Mutual Release of All Claims between the City of Two Harbors and Timothy J. Hedin and authorizing the Acting Mayor and City Administrator to execute said Settlement Agreement on behalf of the City.

Other.

**Adjourn:**



## TWO HARBORS CITY COUNCIL

### AGENDA

March 13, 2023

6:00 P.M. Call to order regular meeting of the City Council of the City of Two Harbors.

Roll call:

Pledge of Allegiance:

Deputy Administrator, Pietila requested the addition of Consent Agenda Item 22, adopting the 2023 Solar Rebate Rates.

Motion by Glaser and Passe approving the agenda with the changes requested by the deputy administrator. Carried.

#### Appearances:

Joe Rhein, Bolton & Menk, was present and addressed the Council regarding the 2023 – 2024 Street Improvement Project noting that there are five special stormwater treatment features that are alternates to the project bid. These features would only be installed if we were successful in receiving grant funding through Lake County Soil & Water Conservation District.

#### Public Works Committee:

Councilor Glaser reported on the last meeting of the Public Works Committee where they discussed the 23-24 Street Improvement Project, the stormwater plan, the Liquor Store Project, Odegard Trail, Airport projects and the water puddle in front of City Hall.

#### Planning Commission:

Councilor Glaser reported that at their last meeting, the Planning Commission conducted a public hearing on the definition of hotels and motels, they discussed the concept of a social district in the City's downtown and a proposal to charge a fee for vacant buildings, in addition they talked about the Short Term Rental Ordinance.

#### Safety Committee:

Councilor Passe reported that the Safety Committee, at their last regular meeting, discussed and recommended the parking options associated with the 2023 – 2024 Street Improvement Project; they discussed preparedness planning for the Thomas the Train event.

Motion by Glaser and Hefter that the following consent agenda items:

1. Approving minutes from the February 27, 2023 Regular City Council meeting.
2. **RESOLUTION NO. 3-71-23 ALLOWING CLAIMS AGAINST THE CITY OF TWO HARBORS TO BE PAID ON MARCH 14, 2023 IN THE AMOUNT OF \$2,119,824.93.**

3. Approving payroll for the second half of February, 2023 in the amount of \$233,081.20.
4. **RESOLUTION NO. 3-72-23 AUTHORIZING PAYMENT TO JIM PERRAULT CONSTRUCTION IN THE AMOUNT OF \$4,986.25 FOR CHANGE ORDER NO. 1 AND PAYMENT AND RETAINAGE ON REMAINDER OF CONTRACT.**
5. **RESOLUTION NO. 3-73-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$43,132.65 FOR PROFESSIONAL SERVICES FROM JANUARY 21, 2023 TO FEBRUARY 17, 2023 FOR THE WASTEWATER TREATMENT FACILITY PROJECT.**
6. **RESOLUTION NO. 3-74-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$32,925.00 FOR PROFESSIONAL SERVICES FROM JANUARY 21, 2023 TO FEBRUARY 14, 2023 FOR THE CHLORINE TANK PROJECT.**
7. **RESOLUTION NO. 3-75-23 AUTHORIZING PAYMENT TO LAKEHEAD CONSTRUCTORS, INC. IN THE AMOUNT OF \$1,337,834.09, FOR PAY APPLICATION NO. 16 FOR THE WASTEWATER TREATMENT FACILITY IMPROVEMENT PROJECT.**
8. **RESOLUTION NO. 3-76-23 AUTHORIZING PAYMENT TO WSB IN THE AMOUNT OF \$470.00 FOR PROFESSIONAL SERVICES FOR THE WASTEWATER TREATMENT FACILITY UPGRADES PROJECT FROM JANUARY 1, 2023 TO JANUARY 31, 2023.**
9. **RESOLUTION NO. 3-77-23 ACCEPTING THE QUOTE OF BORDER STATES ELECTRIC FOR \$24,413.05 TO REPLACE EXISTING STEEL TRUNK MAIN INSTALLED IN 1960 TO BE REPLACED WITH DPE PLASTIC.**
10. **RESOLUTION NO. 3-78-23 ACCEPTING THE AMENDED QUOTE OF VIVAX-METROTECH RTK LINE LOCATED FOR LOCATING UNDERGROUND UTILITIES WITH THE CAPABILITIES OF GPS AND ADDED BLUETOOTH CAPABILITIES FOR AN AMOUNT OF \$11,995.**
11. **RESOLUTION NO. 3-79-23 AUTHORIZING THE PURCHASE OF 70 NEW GREEN TREAT POSTS TO MOUNT POWER PEDS AT THE CAMPGROUND FROM LAMPER LUMBER AT THE COST OF \$10,634.40**
12. **RESOLUTION NO. 3-80-23 ACCEPTING A PROPOSAL FROM VAN IWAARDEN ASSOCIATES FOR GASB 67/68 ACTUARIAL VALUATION FOR FY 2023 AND FY 2024.**
13. **RESOLUTION NO. 3-81-23 AMENDING THE FEE SCHEDULE FOR ANIMAL CONTROL ORDINANCE VIOLATIONS.**
14. **RESOLUTION NO. 3-82-23 DESIGNATING NO PARKING ZONES ON PORTIONS OF 5<sup>TH</sup> STREET AND 4<sup>TH</sup> AVE FOR THE 2023-2024 STREET IMPROVEMENT PROJECT.**

15. **RESOLUTION NO. 3-83-23 RE-APPOINTING JENNA UDENBERG FOR REAPPOINTMENT TO THE TREES AND TRAILS COMMITTEE FOR AN ADDITIONAL 3 YEAR TERM.**
16. Authorizing travel for Randy Hedin to attend MPCA Type IV Biosolids Land Application Training in Breezy Point, MN from April 18-20, 2023.
17. Accepting the request from Jessica Carlson that the Moose Lodge be open for business Sunday, April 23<sup>rd</sup>, 2023.
18. **RESOLUTION NO. 3-84-23 APPROVING THE ENGAGEMENT LETTER FOR SERVICES PROVIDED BY BERGAN KDV FOR THE 2022 AUDIT.**
19. **RESOLUTION NO. 3-85-23 APPROVING PROPOSAL FROM BERGAN KDV FOR GASB 87 IMPLEMENTATION ASSISTANCE RELATED TO LEASES.**
20. **RESOLUTION NO. 3-86-23 APPROVING AN INTERNAL TRANSFER IN 2022 FROM THE CAMPGROUND FUND TO CAPITAL EQUIPMENT FUND FOR \$25,678.50 FOR COSTS ASSOCIATED WITH THE TALL SHIPS FESTIVAL.**
21. **RESOLUTION NO. 3-87-23 CONSIDER APPROVING AN INTERNAL TRANSFER IN 2022 FROM THE CAMPGROUND FUND TO GENERAL FUND FOR \$45,860.13 FOR COSTS ASSOCIATED WITH THE TALL SHIPS FESTIVAL.**

**Communications:**

1. A communication from Jennifer Selchow, Bolton & Menk, providing an update on WWTF Improvements.
2. Communication from Joe Rhein, City Engineer, regarding Engineering Project Updates for the City of Two Harbors
3. Receiving a Receipt of Mediation Petition and Meeting Notice in the matter of Teamsters, Local 346 and City of Two Harbors
4. A letter from Janelle, Jones, Lake County Chamber of Commerce, expressing thanks and appreciation for Capitol days held in February 2023.

**Unfinished Business:**

Motion by Glaser and Hefter that **RESOLUTION NO. 3-88-23 DECLARING SECOND READING OF AN ORDINANCE OF THE CITY OF TWO HARBORS, MINNESOTA AMENDING SECTION 2.51 AND 2.40 OF THE TWO HARBORS CITY CODE AS THEY RELATE TO LEGAL COUNSEL** be adopted as read. Carried by a unanimous yeas vote of all members present on roll call.

**New Business:**

Motion by Glaser and Hefter that **RESOLUTION NO. 3-89-23 APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT OR BIDS FOR THE 2023-2024**

**STREET IMPROVEMENT PROJECT** be adopted as read. Carried by a unanimous yea vote of all members present on roll call.

Motion by Erickson and Passe that **RESOLUTION NO. 3-90-23 CALLING FOR A FEASIBILITY REPORT FOR THE 2023 SIDEWALK IMPROVEMENT PROJECT** be adopted as read. Carried by a unanimous yea vote of all members present on roll call.

Motion by Glaser and Passe that **RESOLUTION NO. 3-91-23 ACCEPTING THE QUOTE FROM BARK'S TREE SERVICE FOR TREE REMOVAL OF 20 TREES IN WARD 3** be adopted as read. Carried by a unanimous yea vote of all members present on roll call.

Motion by Erickson and Hefter that the meeting adjourn. Carried.

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Ben Redden, President, City Council

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Patricia D. Nordean, Administrator

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March 27, 2023

Regular meeting of the City Council of the City of Two Harbors, Minnesota, held on Monday, March 27, 2023, at 6:00 p.m.

The meeting was called to order by President Redden.

Members present, Councilors:           Hefter, Glaser, Kasell, Erickson, Redden. 6.

Others present:                         Deputy Administrator/Finance Director, Pietila  
City Attorney, Costley.

Deputy Administrator, Pietila, requested that items 8, 9 and 10 be removed from the Consent Agenda.

Motion by Erickson and Hefter approving the agenda with the changes requested by the Deputy Administrator. Carried.

**Appearances:**

Jouh Luepke, President, Serene Quarters, 80 South Eighth Street, Minneapolis, MN, and Joe Pelawa, JPJ Engineering, were present and addressed the Council describing their proposal to extend natural gas, water and sanitary sewer utilities from the existing Culver's property along Highway 61 to a residential development located on East Stanley Road.

Brian Guldán, Bolton & Menk, was in attendance virtually and addressed the Council regarding bids received for the Water Treatment Plant Project and funding options for the project. He explained that the City does not have to award the bid until their next regular meeting.

Joe Rhein, Bolton & Menk, was present and addressed the Council regarding funding for the Odegard Trail Project. He explained that Lake County had made application to provide funding for a portion of the Odegard Trail, however, the grant application was not successful, so the Council needs to determine what portion of the trail will be completed this year, or if there is an alternate funding source that could be secured to complete the project. The City is required to spend \$100,000 on trails in the calendar year due to grant funding requirements. Rhein explained that the Trees & Trails Commission is scheduled to meet April 20<sup>th</sup> and they may have a recommendation following that meeting.

Glenn Johnson, 1706 Marie Avenue, was present and addressed the Council regarding tax increment financing and the Lighthouse Point development which has been proposed. He

indicated his opinion that there would be no advantage to the residents as a result of the development and that he feels the best outcome would be for the City to purchase the property.

Todd Ronning, 130 South Avenue, was present and addressed the Council regarding zoning standards, requesting the Council reject the proposed plan for development on Lighthouse Point. He indicated that in the past there have been projects that did not comply with requirements which resulted in erosion issues and property damage.

Judy Olson, 836 Seventh Avenue, was present and addressed the Council regarding “paying attention”. She asked the Council if they want involved citizens. She inquired if they have seen the newspaper articles regarding Ted Stocke, referring to “inconsistencies in his claims”. She asked councilors to envision the shoreline of Lake Superior and how many spots can compare with Lighthouse Point in Two Harbors.

Tom Koehler, 814 Fifth Avenue, was present and addressed the Council expressing opposition to the proposed development on Lighthouse Point, referencing significant contamination of a thin layer of soil on top of fractured bedrock. He suggested sampling and bedrock testing to a minimum of 6 feet.

Donna Heil, 602 First Avenue, was present and addressed the Council requesting that they consider allowing the sale of consumable THC products as allowed by law in the State of Minnesota, within the City of Two Harbors, as soon as possible. She reported that there are no recorded side effects and the products are a highly popular alternative to alcohol. She indicated that there are local establishments outside of the City who are selling these products which is putting her business at a disadvantage due to the current moratorium within the City.

#### **Library Board:**

Councilor Hefter reported that at their most recent meeting, where they had a present by Administrator Nordean regarding policies and procedures for City boards and commissions. They also discussed funding and a donation received which will be used for easy reader books. They learned that the restroom renovation project is on track and there is a potential for some remaining funding available for a staff breakroom.

#### **Public Affairs Committee:**

Councilor Glaser reported that at their regular meeting of the Public Affairs Committee, they discussed a parcel of property located on the Highway 61 Corridor, a policy regarding utility extensions outside of the City limits; and recommend no changes to the existing practice of not reading aloud consent agenda items during the Regular City Council meetings.

**Utilities Committee:**

Councilor Hefter reported that at their meeting of March 21, the Utilities Committee discussed funding for the water plant project, and the proposed extension of utilities beyond the City limits.

**Personnel Committee:**

Councilor Glaser reported that at their last regular meeting, they discussed options for the water and wastewater treatment plant superintendent, elements for the parks, grounds and building maintenance positions and the re-advertisement of a Public Works Specialist 1 position. They also discussed the proposed Deputy Clerk/Administrative Assistant position and Human Resources duties.

Motion by Hefter and Glaser that the following consent agenda items:

1. **RESOLUTION NO. 3-92-23 ALLOWING CLAIMS AGAINST THE CITY OF TWO HARBORS, IN THE AMOUNT OF \$4,233,593.39.**
2. Approving payroll for the first half of March, 2023, in the amount of \$235,164.50.
3. **RESOLUTION NO. 3-93-23 AUTHORIZING A 2023 CITY DEER HUNT WITH RESTRICTIONS ON THE NUMBER OF PERMITS AS RECOMMENDED BY THE DNR AND AUTHORIZING NO MORE THAN 10 PERMITS ON PUBLIC PROPERTY, AND ANY AMOUNT OVER 10 TO BE ISSUED FOR PRIVATE PROPERTY ONLY.**
4. **RESOLUTION NO. 3-94-23 CANCELLING THE ON-SALE AND SUNDAY ON-SALE LIQUOR LICENSE FOR THE TWO HARBORS CURLING CLUB EFFECTIVE APRIL 15, 2023.**
5. **RESOLUTION NO. 3-95-23 APPROVING THE ON-SALE AND SUNDAY ON-SALE LIQUOR LICENSE FOR THE TWO HARBORS GOLF ASSOCIATION FOR THE PERIOD BEGINNING APRIL 16, 2023 – SEPTEMBER 30, 2023, PENDING THE APPROVAL OF THE CHIEF OF POLICE AND THE RECEIPT OF APPROPRIATE DOCUMENTATION.**
6. Accepting the recommendation of the Public Affairs Committee to schedule appearances during the Regular City Council meetings, where possible.
7. Accepting the recommendation of the Personnel Committee to authorize a second posting for the position of Public Works Specialist 1, due to a lack of qualified applicants.
11. Accepting the recommendation of the Personnel Committee to hire a consultant to meet the Class A license requirements for the Wastewater Treatment Facility and directing the City Attorney to draft an agreement between the City of Two Harbors and Northern Wastewater Operations for a period beginning May 1 through November 30, 2023 following the MPCA Wastewater Treatment Facility Contract Operator Guidelines.

12. **RESOLUTION NO. 3-96-23 APPOINTING RANDY HEDIN TO THE POSITION OF INTERIM SUPERINTENDENT OF THE WATER AND WASTEWATER TREATMENT FACILITIES UNDER THE DIRECTION OF NORTHERN WASTEWATER OPERATIONS FOR WASTEWATER TREATMENT OPERATIONS EFFECTIVE MARCH 28, 2023.**
13. Referring to the Utilities Committee, a request by John Leupke, President, Serene Quarters, 80 South 8<sup>th</sup> St, Minneapolis, MN, re: a request to extend gas, water and sanitary sewer services to a development on East Stanley Road.
14. **RESOLUTION NO. 3-97-23 CERTIFYING ASSESSMENTS TO THE LAKE COUNTY AUDITOR AGAINST CERTAIN PROPERTY WITHIN THE CITY FOR UNPAID UTILITY CHARGES.**
15. **RESOLUTION NO. 3-98-23 APPROVING AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF TWO HARBORS AND THE TWO HARBORS GOLF ASSOCIATION TO INCREASE THEIR ANNUAL PAY FOR 2023 FROM \$330,000 TO \$397,000 AND AUTHORIZING THE MAYOR AND ADMINISTRATOR TO EXECUTE SAID AMENDMENT ON BEHALF OF THE CITY.**
16. **RESOLUTION NO. 3-99-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$390 FOR PROJECT MANAGEMENT AND COORDINATION OF THE 2021-2022 STREET IMPROVEMENT PROJECT.**
17. **RESOLUTION NO. 3-100-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$3,278.00 FOR PROFESSIONAL SERVICES FOR THE LIQUOR STORE PROJECT.**
18. **RESOLUTION NO. 3-101-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$49,371.50 FOR PROFESSIONAL SERVICES FOR THE 2023-2024 STREET IMPROVEMENT PROJECT.**
19. **RESOLUTION NO. 3-102-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$3,025, FOR PROFESSIONAL SERVICES FOR THE ODEGARD TRAIL PROJECT.**
20. **RESOLUTION NO. 3-103-23 AUTHORIZING PAYMENT TO BOLTON & MENK IN THE AMOUNT OF \$600 FOR GENERAL ENGINEERING SERVICES.**
21. **RESOLUTION NO. 3-104-23 AUTHORIZING THE PURCHASE OF 5000' OF UNDERGROUND WIRE FOR THE CAMPGROUND ELECTRICAL UPGRADE FROM BORDER STATES ELECTRIC FOR AN AMOUNT OF \$25,428.35.**



22. **RESOLUTION NO. 3-105-23 ACCEPTING, WITH REGRET, THE RESIGNATION OF JEFF NIELSON, FROM HIS POSITION ON THE PLANNING COMMISSION, AND EXPRESSING APPRECIATION FOR HIS SERVICE.**
23. **RESOLUTION NO. 3-106-23 ACCEPTING THE PROPOSAL OF HOLDEN ELECTRIC FOR MATERIALS (EXCEPT PEDS AND WIRE) AND LABOR TO INSTALL 66 NEW ELECTRICAL PEDS AT THE CAMPGROUND FOR AN AMOUNT OF \$84,867.00.**

Carried by a unanimous yea vote of all members present on roll call.

**Communications:**

1. A letter from Donna Heil, Harbor Rail Pub & Events, Mike Kasell, The Topsy Mosquito and Kristina Grann, Landing 61, requesting that the Council take up the discussion of allowing the sale of consumable THC products as allowed by law in the State of MN, within the City of Two Harbors, as soon as possible.
2. An email from Doris Davidson, 212 Second Avenue, expressing her opposition to the proposed development on Lighthouse Point.

**New Business:**

Motion by Erickson and Glaser that **RESOLUTION NO. 3-107-23 RECEIVING A FEASIBILITY REPORT AND CALLING FOR A PUBLIC HEARING FOR 6 PM, OR AS SOON THEREAFTER AS POSSIBLE, ON MONDAY, APRIL 24, 2023, ON THE PROPOSED 2023 SIDEWALK IMPROVEMENT PROJECT** be adopted as read. Carried by a unanimous roll call vote of all members present on roll call.

Motion by Glaser and Hefter Approving the Concept Plan for the proposed Planned Unit Development on Lighthouse Point. The motion failed by the following vote: Yeas: Redden. 1. Nays: Hefter, Glaser, Kasell, Erickson. 4.

Motion by Hefter and Glaser that **RESOLUTION NO. 3-108-23 APPROVING PLANS AND SPECIFICATIONS AND ORDERING ADVERTISEMENT FOR BIDS FOR THE 2023-2024 STREET IMPROVEMENTS PROJECT** be adopted as read. Carried by a unanimous yea vote of all members present on roll call.

Motion by Glaesr and Hefter that **RESOLUTION NO. 3-109-23 APPOINTING AND REAPPOINTING CITY BOARD AND COMMISSION MEMBERS** be adopted as read. Carried by a unanimous yea vote of all members present on roll call.

Motion by Hefter and Glaser Authorizing a letter of support for Lake County Soil & Water Conservation District's application for funding to remove invasive species and install a native planting along Agate Bay and the application for funding assistance to install a two-stage ditch with native vegetation and hydrodynamic separator/baffle box near Agate Bay and a biochar filtration basin next to the Sonju Trail. Carried.

Motion by Erickson and Hefter that the meeting adjourn. Carried by a unanimous yea vote of all members present on roll call.

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Ben Redden, President, City Council

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Patricia D. Nordean, Administrator



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

<b>Originating Staff:</b> Miranda Pietila	<b>Department:</b> Liquor Store	<b>Date:</b> 04/10/2023
<b>Agenda Item Subject:</b> Consider approving contract with American Engineering Testing for \$14,800 for geotechnical soil borings for the Liquor Store Project.	<b>Fiscal Impact:</b> Liquor Store Fund	
<b>BACKGROUND:</b> DSGW requested proposals for geotechnical soil borings for the Liquor Store Project. Three proposals were received, it is the recommendation of the Liquor Store Committee to go with the low bid from American Engineering Testing for \$14,800.		
<b>COUNCIL ACTION REQUESTED:</b> Approve contract with American Engineering Testing for \$14,800 for geotechnical soil borings for the Liquor Store Project.		
<b>RECOMMENDATION:</b> Approve contract with American Engineering Testing for \$14,800 for geotechnical soil borings for the Liquor Store Project.		
<b>ATTACHMENTS:</b> RFP Tabulation from DSGW and American Engineering Testing contract.		

**RFP TABULATION**  
**Two Harbors Municipal Liquor Store**  
**Two Harbors, Minnesota**



**DSGW Project # 22130**

**RFP DATE/TIME:** Friday, March 3, 2023  
**RFP LOCATION:** Email: [sharter@dsqw.com](mailto:sharter@dsqw.com) and [jlautigar@dsqw.com](mailto:jlautigar@dsqw.com)

PROPOSER	FEE	SCHEDULE	NOTES
American Engineering Testing Duluth, MN	\$14,800.00 (Not to Exceed)	<ul style="list-style-type: none"> <li>• Begin 4 – 5 weeks after receipt of authorization.</li> <li>• Field exploration – 3 days</li> <li>• Draft boring logs submitted within 1 week</li> <li>• Report complete 3 weeks following field exploration</li> </ul>	<ul style="list-style-type: none"> <li>• MDH Fee of \$75 for borehole sealing &amp; notification requirements.</li> </ul>
Braun Intertec Duluth, MN	\$16,250.00 (Lump Sum)	<ul style="list-style-type: none"> <li>• Begin approx. 4 weeks after receipt of authorization.</li> <li>• Field exploration – 3 days</li> <li>• Classification &amp; lab testing – 1-2 weeks after field exploration</li> <li>• Preliminary results – 1 week after field exploration</li> <li>• Draft report – 2-3 weeks after field exploration</li> <li>• Final report – within 5 days of receiving comments on draft report</li> </ul>	<ul style="list-style-type: none"> <li>• MDH sealing notification form included with bid for Owner signature. (fee already included)</li> <li>• Add Alt. – Snow Removal \$3,990.00</li> </ul>
EPC Engineering & Testing Duluth, MN	\$18,140.00 (estimated)	<ul style="list-style-type: none"> <li>• Begin in March.</li> <li>• Fieldwork – 5 days.</li> <li>• Verbal (email) results available within a week.</li> <li>• Final report in about 2 weeks.</li> <li>• Report deliver date will be within 14 days of notice to proceed, if notice given no later than March 31, 2023.</li> </ul>	<ul style="list-style-type: none"> <li>• Fee is a time &amp; material basis.</li> <li>• Snow removal – Additional \$5,000.00</li> </ul>

March 3, 2023



City of Two Harbors  
c/o DSGW Architecture  
522 1<sup>st</sup> Avenue  
Two Harbors, Minnesota 55616

Attn: Stacey Harter, FARA, AIA  
[sharter@dsgw.com](mailto:sharter@dsgw.com)

Re: Proposal for Geotechnical Exploration  
Two Harbors Municipal Liquor  
Trunk Highway 61  
Two Harbors, Minnesota  
AET Proposal No. P-0020709

Dear Ms. Harter:

American Engineering Testing (AET) is pleased to submit a proposal to the City of Two Harbors. (the City) for geotechnical soil borings and report for the proposed Municipal Liquor store project. In this proposal, we present our understanding of the project, an outline of the scope of services we are to provide, a fee schedule, and an estimate of charges for our services.

### PROJECT INFORMATION

The proposed project site is located on the south side of Trunk Highway 61 just south of the existing Culver's. DSGW has provided us with a site drawing noting the proposed locations of the store (about 10,600 square feet).

The project is in the preliminary planning stage and the structural design of the buildings has not been completed. The building will be one story in height with slab on grade. Column loading is anticipated to be low, with loads of 50 kips or less. Floor loading is anticipated to be less than 150 psf. The building type and final loading will be confirmed for the preparation of the final report.

### SCOPE OF SERVICES

#### ***Field Exploration – Soil Borings***

Per the emailed request for proposal, we are submitting our fee proposal for the following scope. This proposal is based on the requested boring locations and depths as indicated. We will:

- Arrange clearance of underground public utilities through the Gopher State One-Call System.

- Perform 4 standard penetration test boring (ASTM: D1586) to depths of 14½ to 24 ½ feet each.
- Seal the borehole per Minnesota Department of Health requirements.

We will drill the boring using hollow stem augers or by rotary mud drilling, and sampling by the split-barrel method (ASTM D1586). Our crew will keep a field log noting the methods of drilling and sampling, the Standard Penetration Values (N-values, "blows per foot"), preliminary soil classification, and observed groundwater levels. Representative portions of recovered samples will be sealed in jars to prevent moisture loss and submitted to our laboratory for review, testing and final classification.

We will backfill the borehole to comply with the Minnesota Department of Health Regulations. For a boring drilled through the existing pavement, we will patch the boring at the surface with bituminous cold patch.

Even after backfilling, some sloughing of the backfill may occur, resulting in a potential tripping hazard to pedestrians. We assume that the City will backfill and repair a borehole that may slough after our exploration is complete. AET cannot accept any liability associated with pedestrian injury.

Based on our knowledge of the site, we plan to drill the borings with a 6x6 truck mounted drill vehicle. Accessing the boring locations may require snow removal, we have not included a fee for snow removal in our cost estimate.

### ***Underground Utilities***

Before we drill, we will contact Gopher State One Call to locate public underground utilities. Gopher State One Call does not currently charge for this service, but they will not locate private underground utilities or structures. Examples of private utilities include, but are not limited to, propane lines, sewer laterals, sprinkler systems, site lighting, and electric and data lines between buildings. **The property owner is responsible for locating all private underground utilities.** Please provide us with any maps, plans and records showing the location of all private utilities and structures. Based upon the agricultural use of the site, we do not anticipate private utilities; a discussion should be held to determine if there are any.

We can provide you with names and contact information for private utility locators. These companies usually charge a fee for their services. Also, please note that private locators cannot guarantee that all private utilities will be located. For the private locator to be accurate and effective, the property owner must provide maps, plans and records showing the location of all private utilities and structures. The property owner must also provide a knowledgeable site representative to meet with the private locator and AET personnel.

AET shall be entitled to rely upon the accuracy of all location information supplied by any source. We will not be responsible for any damages to underground utilities or structures not

located or incorrectly identified by the property owner, any maps, plans or records, or public or private utility locator providers.

### ***Laboratory Testing***

We will initiate routine laboratory testing by reviewing each recovered soil sample to assess the major and minor soil components, while also noting the color, degree of saturation, and lenses or seams in the samples. If we encounter cohesive soil, we will test selected samples for moisture content. We recommend performing two grain size analysis tests in the stormwater feature areas for aid in determining infiltration rates if granular soils are encountered.

On completion of testing, we will visually/manually classify each sample on the basis of texture and plasticity in accordance with the Unified Soil Classification System and prepare the boring logs. Any additional laboratory testing you may request will be invoiced per our fee schedule (attached).

### ***Report***

We will submit a Preliminary Report based on the initial 10 borings. After review by design team, and the drilling of agreed upon additional borings, we will submit a final report. The final report will include the building structural design and loading information.

Our geotechnical report (Preliminary and Final) will include the logs of all testing borings, descriptions of drilling, testing and classification methods. We will review the soil and groundwater conditions in the report. The geotechnical report will be prepared summarizing our results of subsurface exploration, laboratory testing, and providing recommendations for earthwork design. The following will be discussed.

- Grading procedures to prepare the building areas for structural support, including comments on the suitability of the on-site soils for reuse as fill.
- Discussion of the soils in the on-site stockpile.
- Foundation types and depths, including allowable soil bearing capacity and estimates of foundation settlement.
- Ground floor slab support, including recommendations on the need for a vapor or capillary water barrier.
- Backfilling procedures, including material types and compaction requirements.
- Preparation of subgrade for exterior pavements.
- Estimated subgrade R value recommendations for Civil Engineer to use in their pavement design.
- Recommended pavement section thickness for proposed drive areas and parking lots. Recommendations for concrete and bituminous pavements.
- Utility pipe bedding and trench backfill recommendations.
- Stormwater pond design considerations.
- Comments on other items which may affect final performance or constructability, such as frost heave and drainage considerations.

The scope of work defined in this proposal is intended for geotechnical purposes, and not to explore for the presence or extent of environmental contamination at these sites. However, we will note any obvious contamination encountered by sight and smell.

## **SCHEDULE**

Weather permitting and based on our current backlog, we anticipate the field work can begin within approximately four to five weeks after receipt of authorization. The field exploration is estimated to take 3 days to complete. Draft boring logs can be submitted within one week following the field exploration. The report should be completed within three weeks following the field exploration, depending upon the review time by the design team and the need for additional borings.

## **FEES**

For the scope of services described above, our charges will be as follows:

1. Boring Locations and Utility Clearance	\$ 875.00
2. Drilling and Sampling - 14 borings, 280 feet	\$11,150.00
3. Laboratory classification and testing	\$ 875.00
4. Preliminary Geotechnical Report	\$ 1,200.00
5. Final Geotechnical Report	<u>\$ 700.00</u>
<b>TOTAL ESTIMATE \$14,800.00</b>	

**We will establish \$14,800.00 as a not-to-exceed lump sum fee for the geotechnical borings.** In the event the scope of our services needs to be revised (for example, additional or deeper borings/soundings, or additional field or laboratory testing), we will review such scope adjustments and the associated fees with you, and receive your approval before proceeding. Our fees will be in effect until April 30, 2023, after which they will be subjected to review and possible escalation.

## **MINNESOTA DEPARTMENT OF HEALTH FEES**

Effective July 1, 2019, the Minnesota Department of Health (MDH) has changed the borehole sealing and notification requirements. The MDH also requires that a fee of \$75 and Sealing Record be submitted to the MDH, with a copy to you, after the borings are completed. The MDH Well Construction Notification requires the Property Owner name and mailing address (the Property Owner will also receive a copy of the Sealing Record). Please provide this information below. We assume HDR will be the Well Owner. Signatures from both the Property Owner and the Well Owner will be required on the form prior to start of drilling.



City of Two Harbors – Municipal Liquor Store  
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March 3, 2023  
Page 5 of 6

Property Owner's name/company name:

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Property Owner's mailing address:

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**ENVIRONMENTAL CONCERNS:**

This proposal is presented for engineering services to evaluate the structural properties of the soil at the specified site. This proposal does not cover an environmental assessment of the site or environmental testing of the soil or groundwater. If you wish to have us provide these additional services, please contact us. Rig decontamination, additional environmental monitoring, and additional personnel safety precautions and associated costs may be required if contamination is encountered during implementation of this proposed scope of services.

**TERMS AND CONDITIONS:**

All AET Services are provided subject to the Terms and Conditions set forth in the enclosed "Environmental/Geotechnical Service Agreement—Terms and Conditions," which, upon acceptance of this proposal, are binding upon you as the Client requesting Services, and your successors, assignees, joint venturers and third-party beneficiaries. Please be advised that additional insured status is granted upon acceptance of the proposal.

**By authorizing this proposal, we will proceed with the understanding that permission has been given by the current property owner to enter the site and perform our field services.**

**ACCEPTANCE:**

AET requests written acceptance of this proposal in the Proposal Acceptance box below, but the following actions shall constitute your acceptance of this proposal together with the Terms and Conditions and Amendments: 1) issuing an authorizing purchase order for any of the Services described above, 2) authorizing AET's presence on site, or 3) written or electronic notification for AET to proceed with any of the Services described in this proposal. Please indicate your acceptance of this proposal by signing below and returning a copy to us. When you accept this proposal, you represent that you are authorized to accept on behalf of the Client.

City of Two Harbors – Municipal Liquor Store  
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March 3, 2023  
Page 6 of 6

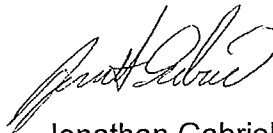
AET appreciates the opportunity to provide this service for you and looks forward to working with you on this project. If you have questions or need additional information, please contact us.

Sincerely,

**American Engineering Testing, Inc.**



Robert J. Olson. PE (MN)  
Area Manager-Northern & Central MN  
Phone: (651) 659-1316  
Email: [rolson@TeamAET.com](mailto:rolson@TeamAET.com)



Jonathan Gabriel  
Duluth Manager

Attachments:      AET Service Agreement (4 pgs.)  
                            Proof of Insurance  
                            W9

Cc. Ms. Jessica Lautigar, DSGW Architecture

<b>AET PROPOSAL No. P-0020709</b>	<b>ACCEPTANCE AND AUTHORIZATION</b>
<b>Signature:</b>	
<b>Printed Name:</b>	
<b>Company:</b>	
<b>PO No./Project No.:</b>	
<b>Invoice email:</b>	
<b>Date:</b>	

**SECTION 1 - RESPONSIBILITIES**

**1.1** - This Service Agreement – Terms and Conditions ("terms and conditions") is applicable to all services ("Services") provided by American Engineering Testing, Inc. (AET). As used herein "Services" refers to the scope of services described in the proposal submitted by AET to Client. The proposal, these terms and conditions and any appendices attached hereto shall comprise the agreement ("Agreement") between AET and Client for Services described in the proposal and are binding upon the Client, its successors, assignees, joint ventures and third-party beneficiaries. **AET requests written acceptance of the Agreement, but the following actions shall also constitute Client's acceptance of the Agreement: 1) issuing an authorizing purchase order, task order, service order, or any other documentation for any of the Services, 2) authorizing AET's presence on site, or 3) written or electronic notification for AET to proceed with any of the Services.** Issuance of a purchase order, task order or service order by Client which contains separate terms and conditions will not take precedence or modify the terms and conditions contained in this Service Agreement AND THE TERMS AND CONDITIONS OF THIS SERVICE AGREEMENT AND ANY CORRESPONDING PROPOSAL ISSUED BY AET SHALL GOVERN UNLESS AUTHORIZED IN WRITING IN ADVANCE BY AET.

**1.2** – Prior to AET performing Services, Client will provide AET with all information that may affect the cost, progress, safety and performance of the Services. This includes, but is not limited to, information on proposed and existing construction, all pertinent sections of contracts between Client and their Client and/or Owner which contain flow-down provisions to AET, if they are provided, site safety plans or other documents which may control or affect AET's Services. If new information becomes available during AET's Services, Client will provide such information to AET in a timely manner. Failure of Client to timely notify AET of changes to the project including, but not limited to, location, elevation, loading, or configuration of the structure or improvement will constitute a release of any liability or indemnity obligations of AET for loss or damages related to such changes. Client will provide a representative for timely answers to project-related questions by AET.

**1.3** - AET is responsible only for performance of the Services. AET will not be held responsible for work or omissions by Client or any other party working on the project. The Services do not include construction management, general contracting or surveying services. AET will not be responsible for directing or supervising the work of other parties, unless specifically authorized and agreed to in writing.

**1.4** – Client acknowledges the limitations inherent in sampling to characterize buried subsurface conditions. Variations in soil conditions occur between and beyond sampled/tested locations. The passage of time, natural occurrences and direct or indirect human activities at the site or distant from it may alter the actual conditions. Client assumes all risks associated with such variations in soil and subsurface conditions.

**1.5** - AET is not responsible for interpretations or modifications of AET's recommendations by other persons.

**1.6** - Should changed conditions be alleged, Client agrees to notify AET before evidence of alleged change is no longer accessible for evaluation.

**1.7** – Pricing in the proposal assumes use of these terms and conditions. AET reserves the right to amend pricing if Client requests modifications to the Agreement or use of Client's alternate contract format. Any contract amendments made after Client has authorized the Services shall be applicable only to Services performed after the effective date of such amendment. The proposal and these terms and conditions, including terms of payment, shall apply to all Services performed prior to the effective date of such amendment.

**1.8** - The AET proposal accompanying these terms and conditions is valid for thirty (30) days after the proposal issuance date to the Client. Any attempt to authorize Services after the expiration date is subject to AET's right to revise the proposal as necessary.

**SECTION 2 - SITE ACCESS AND RESTORATION**

**2.1** - Client will furnish AET safe and legal site access.

**2.2** Client acknowledges that in the normal course of its Services, AET may unavoidably alter existing site conditions or affect the environment in the area being studied. AET will take reasonable precautions to minimize alterations to the site or existing materials. Restoration of the site is the responsibility of the Client.

**SECTION 3 - UNDERGROUND UTILITIES AND STRUCTURES (FACILITIES)**

**3.1** - AET's sole responsibility under this section will be to contact the state "call before you dig" notification center (e.g. Gopher State One Call in Minnesota), if such an entity exists, for location information of public utilities only. AET shall have no obligation to proceed with the work until Client has fully complied with all the requirements of this Section 3.

**3.2** - Client will mark or cause to be marked the location of all other Facilities that service or are located on the site. AET shall be entitled to rely upon the accuracy of all location information supplied by any source.

**3.3** - Client acknowledges that location data may be incorrect or that some Facilities may not be capable of location and Client fully accepts this risk and waives any claims against AET for incorrect locations or Facilities incapable of location.

**3.4** - Client shall hold harmless, indemnify and defend AET from all claims, damages, losses, fines, penalties and expenses (including attorney's fees) arising out of or related to the following: a) Facilities that are not shown or vary from the locations shown on any plans or drawings, b) Facilities that are not located by or vary from the locations marked by Client, governmental or quasi-governmental locator programs, or private utility locating services, or c) any other Facilities that are not disclosed or vary from locations provided by the Client. The obligation to defend AET shall be independent of the obligation to indemnify and hold harmless AET and shall be with independent counsel acceptable to AET.

**SECTION 4 - CONTAMINATION**

**4.1** - Client acknowledges and accepts all contamination risks which may be associated with the Services. Risks include, but are not limited to, cross contamination created by linking contaminated zones to uncontaminated zones during the drilling process; containment and proper disposal of known or suspected hazardous materials, drill cuttings and drill fluids; and decontamination of equipment and disposal and replacement of contaminated consumables. Discovery of actual or suspected hazardous materials shall entitle AET to take immediate measures it deems necessary in its sole discretion, including regulatory notification, to protect human health and safety, and/or the environment. Further, discovery of such materials constitutes a changed condition for which Client agrees to pay associated additional cost.

**4.2** - Client shall indemnify and hold AET harmless from all liability, damages, claims or costs resulting from contaminants on the site.

**SECTION 5 - SAFETY**

**5.1** - Client shall inform AET of any known or suspected hazardous materials or unsafe conditions at the site. If, during the course of AET's Services, such materials or conditions are discovered, AET reserves the right to take measures to protect AET personnel and equipment or to immediately terminate Services. Client shall be responsible for payment of such additional protection costs.

**5.2** - AET shall only be responsible for safety of AET employees at the site; the safety of all others shall be Client's or other persons' responsibility.

**SECTION 6 - SAMPLES**

**6.1** - Client shall inform AET of any known or suspected hazardous materials prior to submittal to AET. All samples obtained by or submitted to AET remain the property of the Client during and after the Services. Any known or suspected hazardous material samples will be returned to the Client at AET's discretion.

**6.2** - Non-hazardous samples will be held for thirty (30) days and then discarded unless, within thirty (30) days of the report date, the Client requests in writing that AET store or ship the samples. Storage and shipping costs shall be borne solely by Client.

**SECTION 7 - PROJECT RECORDS**

The original project records prepared by AET will remain the property of AET. AET shall retain these original records for a minimum of three years following submission of the report, during which period the project records can be made available to Client at AET's office at reasonable times.

**SECTION 8 - STANDARD OF CARE**

AET performs its Services consistent with the level of care and skill normally performed by other firms in the profession at the time of this service and in this geographic area, under similar budgetary constraints.

**SECTION 9 - INSURANCE**

AET maintains insurance with coverage and minimum limits shown below. AET will furnish certificates of insurance to Client upon request.

**9.1 -**

Workers' Compensation Employer's Liability	Statutory Limits \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee
Commercial General Liability	\$1,000,000 each occurrence \$1,000,000 aggregate
Automobile Liability	\$1,000,000 each accident
Professional/Pollution Liability Insurance	\$1,000,000 per claim \$1,000,000 aggregate

**9.2** - Commercial General Liability insurance will include coverage for Products/Completed Operations extending one (1) year after completion of AET's Services as outlined in our proposal, Property Damage, Personal Injury, and Contractual Liability coverage applicable to AET's indemnity obligations under this Agreement.

**9.3** - Automobile Liability insurance shall include coverage for all owned, hired and non-owned automobiles.

**9.4** - Professional/Pollution Liability Insurance is written on a claims-made basis and coverage will be maintained for one (1) year after completion of AET's Services as outlined in our proposal. Renewal policies during this period shall maintain the same retroactive date.

**9.5** - To the extent permitted by applicable state law, and upon Client's signing of the proposal, which includes these Terms and Conditions, and return of the same to AET, or Client provided forms of acceptance as defined in Section 1.1; Client and Owner shall be named an "additional insured" on AET's Commercial General Liability Policy (Form CG D4 14, which includes blanket coverage for the Additional Insured on a Primary and Non-Contributory basis). Client and Owner shall also be named an "additional insured" on a Primary and Non-contributory basis on AET's Automobile Liability Policy (Form CA T4 74). Any other endorsement, coverage or policy requirement may result in additional charges.

**9.6** - AET will maintain insurance coverage required by this Agreement at its sole expense, provided such insurance is reasonably available, with insurance carriers licensed to do business in the state in which the project is located and having a current A.M. Best rating of no less than A minus (A-). Such insurance shall provide for thirty (30) days prior written notice to Client for notice of cancellation or material limitations for the policy or ten (10) days' notice for non-payment of premium.

**9.7** - AET reserves the right to charge Client for AET's costs for additional coverage requirements unknown on the date of the proposal, e.g., coverage limits or policy modification including waiver of subrogation, additional insured endorsements and other project specific requirements.

**SECTION 10 - DELAYS**

If delays to AET's Services are caused by Client or Owner, other parties, strikes, natural causes, pandemic, weather, or other items beyond AET's control, a reasonable time extension for performance of the Services shall be granted, and AET shall receive an equitable fee adjustment.

**SECTION 11 - PAYMENT, INTEREST, AND BREACH**

**11.1** - Invoices are due net thirty (30) days from the date of receipt of an undisputed invoice. Invoices will be paid without reductions for bond or retention. Client will inform AET of invoice questions or disagreements within fifteen (15) days of invoice date; unless so informed, invoices are deemed correct.

**11.2** - Invoices remaining unpaid for sixty (60) days shall constitute a material breach of this Agreement, permitting AET, in its sole discretion and without limiting any other legal or equitable remedies for such breach, to terminate performance of this Agreement and be relieved of any associated duties to the Client or other persons. Further, AET may withhold from Client data and reports in AET's possession. If Client fails to cure such breach, all reports associated with the unpaid invoices shall immediately upon demand be returned to AET and Client may neither use nor rely upon such reports or the Services.

**11.3** - AET reserves the right to pursue any unpaid invoice utilizing available remedies at law. AET explicitly reserves its Mechanic Lien or Bond Claim rights for nonpayment of an undisputed invoice. Client is responsible for paying AET expenses and attorney fees related to collection of past due invoices.

**11.4** - AET reserves the right to charge a 2.5% fee on any payment made using a credit card or debit card.

**SECTION 12 - CHANGE ORDERS**

AET's proposal associated with this project may provide an estimated cost for the work. If the proposal amount is a time and material estimate, or if changes occur affecting the project scope, estimated quantities, project schedule or other unforeseen conditions, AET will communicate with Client request a change order. However, nothing in this agreement shall be construed in any way as a waiver of payment by Client to AET for Services authorized under this agreement. Approval of a change order may be in writing, by electronic communication, or any directive for additional Services.

**SECTION 13 - MEDIATION**

**13.1** - Except for enforcement of AET's rights to payment for Services rendered or to assert and/or enforce its lien rights, including without limitation assertion and enforcement of mechanic's lien rights and foreclosure of the same, Client and AET agree that any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party; provided however that if either party fails to respond to a request for mediation within sixty (60) days, the party requesting mediation may without further notice, proceed to arbitration or the institution of legal or equitable proceedings.

**13.2** - Mediation shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association. Request for mediation shall be in writing and the parties shall share the mediator's fee and any filing fees equally and each party shall pay their own legal fees. The mediator shall be acceptable to both parties and shall have experience in commercial construction matters.

**SECTION 14 - LITIGATION REIMBURSEMENT**

Except for matters relating to non-payment of fees, which is governed by Section 11 hereof, payment of attorney's fees and costs associated with lawsuits or arbitration of disputes between AET and Client, which are dismissed or are judged substantially in either party's favor, shall be paid by the non-prevailing party. Applicable costs include, but are not limited to, attorney and expert witness fees, court costs, and other direct costs.

**SECTION 15 - MUTUAL INDEMNIFICATION**

**15.1** - Subject to the limitations contained in Sections 15 and 18, AET agrees to indemnify Client from and against damages and costs to the extent caused by AET's negligent performance of the Services.

**15.2** - Client agrees to indemnify AET from and against damages and costs to the extent caused by the intentional acts or negligence of the Client, Owner, Client's contractors and subcontractors or other third parties.

**15.3** - If Client has an indemnity agreement with other persons or entities relating to the project for which AET's Services are performed, the Client shall include AET as an additional Insured.

**15.4** - AET's indemnification to the Client, including any indemnity required or implied by law, is limited solely to losses or damages caused by its failure to meet the standard of care and only to the extent of its negligence.

**SECTION 16 - NON-SOLICITATION**

Each party to this Agreement (a "Party") agrees that it will not encourage, induce, or actively solicit any employee of the other party to leave their employment for any reason, provided that neither Party is precluded from (a) hiring any such employee who has been terminated by a Party or its subsidiaries prior to commencement of employment discussions between a Party and such employee, or (b) soliciting any such employee by means of a general advertisement or through an employment agency that does not specifically pursue the employee, or (c) hiring employees or former employees of the other Party who contact the Party on its own accord. This Non-Solicitation provision shall be effective and enforceable for six (6) months following termination of this Agreement.

**SECTION 17 - MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES**

Except as specifically set forth herein and to the extent permitted by applicable law, Client and AET waive against each other, and each other's officers, directors, members, subcontractor, agents, assigns, successors, partners, and employees any and all claims for or entitlement to special, incidental, indirect, punitive, or consequential damages arising out of, resulting from, or in any way related to the Services provided by AET under this Agreement. This mutual waiver of consequential damages includes, but is not limited to, the following: loss of profits; loss of revenue; rental costs/expenses incurred; loss of income; loss of use of property, equipment, materials or services; loss of opportunity; loss of rent; loss of good will; loss of financing; loss of credit; diminution of value; loss of business and reputation; loss of management or employee productivity or the services of such persons; increased financing costs; cost of substitute facilities; cost of substitute goods/property/equipment; cost of substitute services; and/or cost of capital.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement in accordance with the provisions of the Agreement and related documents and shall survive any such termination.

#### **SECTION 18 - LIMITATION OF LIABILITY**

To the fullest extent permitted by applicable law, the total aggregate liability of AET and its officers, directors, partners, employees, subcontractors, agents, and sub-consultants, to Client and/or Client's employees, officers, directors, members, agents, assigns, successors, or partners, or anyone claiming through Client, for any and all injuries, damages, claims, losses, or expenses (including attorney's fees and costs) arising out of, resulting from or in any way related to Services provided by AET from any cause or causes, including, but not limited to, its negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the total compensation in excess of costs received by AET for Services or \$50,000, whichever is greater. The limitation of liability set forth herein does not apply to claims arising solely out of or related to the willful or intentional acts of AET.

#### **SECTION 19 - POSTING OF NOTICES ON EMPLOYEE RIGHTS**

Effective June 21, 2010, prime contracts with a value of \$100,000 or more and signed by federal contractors on projects with any agency of the United States government must comply with 29 CFR Part 471, which requires physical posting of a notice to employees of their rights under Federal labor laws. The required notice may be found at 29 Code of Federal Regulations Part 471, Appendix A to Subpart A. The regulation also has a "flow-down" requirement for subcontractors under the prime agreement for subcontracts with a value of \$10,000 or more. AET requires strict compliance of its subcontractors working on federal contracts subject to this regulation. The regulation has specific requirements for location of posting and language(s) for the poster.

#### **SECTION 20 - TERMINATION**

After 7 days' written notice, either party may elect to terminate this Agreement for justifiable reasons. In this event, the Client shall pay AET for all work performed, including demobilization and reporting costs to complete the Services.

#### **SECTION 21 - SEVERABILITY**

Any provisions of this Agreement later held to violate a law or regulation shall be deemed void, and all remaining provisions shall continue in force. However, Client and AET will in good faith attempt to replace an invalid or unenforceable provision with one that is valid and enforceable, and which comes as close as possible to expressing the intent of the original provision.

#### **SECTION 22 - GOVERNING LAW**

This Agreement shall be construed in accordance with the Laws of the State of Minnesota without regard to its conflicts of law provisions.

#### **SECTION 23 - ENTIRE AGREEMENT**

This Agreement, including these terms and conditions and attached proposal and appendices, is the entire agreement between AET and Client. Regardless of method of acceptance of this Agreement by the Client, this Agreement supersedes any written or oral agreements, including purchase/work orders or other Client agreements submitted to AET after the start of our Services. Any modifications to this Agreement must be mutually acceptable to both parties and accepted in writing. No considerations will be given to revisions to AET's terms and conditions or alternate contract format submitted by the Client as a condition for payment of AET's accrued Services.

## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Print or type.  
See Specific instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

AMERICAN ENGINEERING TESTING, INC.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☒ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► \_\_\_\_\_  
Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ► \_\_\_\_\_

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

550 CLEVELAND AVE. N..

6 City, state, and ZIP code

ST. PAUL, MN 55114

7 List account number(s) here (optional)

Requester's name and address (optional)

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

\_\_\_\_ - \_\_\_\_ - \_\_\_\_

or

Employer identification number

4 1 - 0 9 7 7 5 2 1

### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign  
Here

Signature of  
U.S. person ►

*Philip Chene*

Date ► 1/1/23

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.



AMERCON-12

KREYNOLDS1

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/8/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 20443386  
Hub International Great Plains  
245 E. Roselawn Avenue  
Suite 31  
Saint Paul, MN 55117-1940

CONTACT NAME: Ann Ross

PHONE (A/C, No, Ext): (651) 288-5137

FAX (A/C, No): (651) 286-0560

E-MAIL ADDRESS: ann.ross@hubinternational.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: The Phoenix Insurance Company 25623

INSURER B: The Travelers Indemnity Company of America 25666

INSURER C: Travelers Property Casualty Company of America 25674

INSURER D: The Travelers Indemnity Company 25658

INSURER E: Continental Casualty Company 20443

INSURER F:

INSURED  
AMERICAN CONSULTING SERVICES INC  
AMERICAN ENGINEERING TESTING INC  
AMERICAN PETROGRAPHIC SERVICES INC  
550 CLEVELAND AVE N  
ST PAUL, MN 55114-1804

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR			P630539K8896PHX23	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COM/OP AGG \$ 4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:						
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			8102L6457122343G	1/1/2023	1/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			CUP3K2260092343	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	UB9H9151012343G	1/1/2023	1/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	PROF/POLL LIABILITY			ECH254066939	1/1/2023	1/1/2024	EACH CLAIM \$ 10,000,000
E	RETRO: 070287			ECH254066939	1/1/2023	1/1/2024	AGGREGATE \$ 15,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
RENEWALS: contracts@teamAET.com

## CERTIFICATE HOLDER

## CANCELLATION

ILLUSTRATION CERTIFICATE

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE





**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

<b>Originating Staff:</b> Miranda Pietila	<b>Department:</b> Wastewater Plant	<b>Date:</b> 04/10/2023
<b>Agenda Item Subject:</b> Consider approving invoice to WSB for the material testing for the WWTP in the amount of \$335.00, total contract is \$22,695.	<b>Fiscal Impact:</b> State Appropriations, PSIG Grant, WIF Grant, Sewer & Electric Fund reserves with the remaining balance to be covered from a low interest rate PFA loan.	
<b>BACKGROUND:</b> The City has a contract with WSB for the WWTP project, this is for services provided February 1 <sup>st</sup> to 28 <sup>th</sup> 2023. Total contract is \$22,695, remaining contract is \$4,142.50		
<b>COUNCIL ACTION REQUESTED:</b> Approve invoice for \$335 to WSB.		
<b>RECOMMENDATION:</b> Approve invoice for \$335 to WSB.		
<b>ATTACHMENTS:</b> Invoice from WSB		

701 XENIA AVENUE S  
SUITE 300  
MINNEAPOLIS, MN  
55416



City of Two Harbors  
Attn: Miranda Pietila  
522 First Avenue  
Two Harbors, MN 55616

March 29, 2023  
Project/Invoice: R-019334-000 - 13  
Reviewed by: Chad DeMenge  
Project Manager: Terry Norlen

Two Harbors Wastewater Treatment Facility Upgrades

**Professional Services from February 1, 2023 to February 28, 2023**

Phase	CMT	Construction Materials Testing		
Concrete Field Testing				
<b>Unit Billing</b>				
CMT Engineering Technician II				
2/8/2023		1.5 Hours @ 60.00	90.00	
2/14/2023		1.5 Hours @ 60.00	90.00	
2/24/2023		1.5 Hours @ 60.00	90.00	
	<b>Total Units</b>		<b>270.00</b>	<b>270.00</b>
		<b>Total this Task</b>		<b>\$270.00</b>

Materials Lab Testing

**Unit Billing**

Compressive Strength - Cylinder				
2/8/2023	23-0106	4.0 Cylinders @ 5.00	20.00	
2/14/2023	23-0111	5.0 Cylinders @ 5.00	25.00	
2/24/2023	23-0152	4.0 Cylinders @ 5.00	20.00	
	<b>Total Units</b>		<b>65.00</b>	<b>65.00</b>
		<b>Total this Task</b>		<b>\$65.00</b>
		<b>Total this Phase</b>		<b>\$335.00</b>

Billing Limits	Current	Prior	To-Date	
Total Billings	335.00	18,217.50	18,552.50	
Limit			22,695.00	
Remaining			4,142.50	
		<b>Total this Invoice</b>		<b><u>\$335.00</u></b>



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

<b>Originating Staff:</b> Miranda Pietila	<b>Department:</b> Wastewater Plant	<b>Date:</b> 04/10/2023
<b>Agenda Item Subject:</b> Consider approving Pay App #17 to Lakehead Constructors for the Wastewater Treatment Plant Project for \$721,541.40.	<b>Fiscal Impact:</b> State Appropriations, PSIG Grant, WIF Grant, Sewer & Electric Fund reserves with the remaining balance to be covered from a low interest rate PFA loan.	
<b>BACKGROUND:</b> See attached communication from Bolton & Menk.		
<b>COUNCIL ACTION REQUESTED:</b> Approve Pay App #17 \$721,541.40		
<b>RECOMMENDATION:</b> Approve Pay App #17 \$721,541.40		
<b>ATTACHMENTS:</b> Communication and Pay App		



Real People. Real Solutions.

7533 Sunwood Drive NW  
Suite 206  
Ramsey, MN 55303-5119

Ph: (763) 433-2851  
Fax: (763) 427-0833  
Bolton-Menk.com

VIA EMAIL

March 27, 2023

Patty Nordean, City Administrator  
City of Two Harbors  
522 1<sup>st</sup> Ave.  
Two Harbors, MN 55616

RE: Two Harbors Wastewater Treatment Facility Improvements  
Pay Application No. 17  
BMI Project Number: M24.117177

Dear Patty,

Enclosed is a copy of Pay Application No. 17 from Lakehead Constructors, Inc. for \$721,541.40. I have reviewed this request and recommend payment to the contractor. The work reflected on this application represents 49.5% of the work to be completed under this contract. Please process this request for payment.

Please contact me if you have any questions.

Sincerely,  
**Bolton & Menk, Inc.**

**Jennifer Selchow, P.E.**  
Environmental Project Engineer

Enclosures

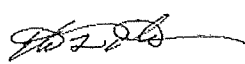
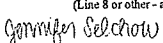
cc: Joe Rhein, Bolton and Menk, Inc.  
Brian Guldán, Bolton and Menk, Inc.  
Randy Hedin, City of Two Harbors  
Miranda Pietila, City of Two Harbors  
File

# Contractor's Application for Payment No.

Application Period: 2/25/23 - 3/24/23		Application Date: 3/24/2023	Invoice No. 17
To (Owner): City of Two Harbors, MN	From (Contractor): Lakehead Constructors, Inc.	Via (Engineer): Bolton & Menk	
Project: Wastewater Treatment Facility Improvements	Contract: Wastewater Improvements		
Owner's Contract No.:	Contractor's Project No.: 7834	Engineer's Project No.: M24.117177	

## Application For Payment Change Order Summary

Approved Change Orders				
Number	Additions	Deductions		
			1. ORIGINAL CONTRACT PRICE.....	\$ 229,297,715.00
			2. Net change by Change Orders.....	\$
			3. Current Contract Price (Line 1 + 2).....	\$ 229,297,715.00
			4. TOTAL COMPLETED AND STORED TO DATE	
			(Column F on Progress Estimate).....	\$ 115,277,885.71
			5. RETAINAGE:	
			a. 5% X \$13,893,856.18 Work Completed.....	\$ 569,692.81
			b. 5% X \$1,384,029.53 Stored Material.....	\$ 569,201.48
			c. Total Retainage (Line 5a + Line 5b).....	\$ 763,894.29
			6. AMOUNT ELIGIBLE TO DATE (Line 4 - Line 5c).....	\$ 114,513,991.42
			7. LESS PREVIOUS PAYMENTS (Line 6 from prior Application).....	\$ 113,792,450.02
			8. AMOUNT DUE THIS APPLICATION.....	\$ 721,541.40
			9. BALANCE TO FINISH, PLUS RETAINAGE	
			(Column G on Progress Estimate + Line 5 above).....	\$ 114,783,723.58
TOTALS				
NET CHANGE BY				
CHANGE ORDERS				

<p><b>Contractor's Certification</b></p> <p>The undersigned Contractor certifies that to the best of its knowledge: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.</p> <p></p> <p>By: Chris Clements Date: 3/24/2023</p>		<p>Payment of: \$ 721,541.40 (Line 8 or other - attach explanation of the other amount)</p> <p>is recommended by:  04/03/2023 (Engineer) (Date)</p> <p>Payment of: \$ 721,541.40 (Line 8 or other - attach explanation of the other amount)</p> <p>is approved by: _____ (Owner) (Date)</p> <p>Approved by: _____ Funding Agency (if applicable) (Date)</p>
---	--	---

Endorsed by the Construction Specifications Institute.

# Progress Estimate

# Contractor's Application

Project: Wastewater Treatment Facilities Improvements		Application Number: 17						
Application Period: 2/25/23 - 3/24/23		Application Date: 3/24/2023						
A		B	Work Completed		E	F		G
Item Specification Section No.	Description	Scheduled Value	C From Previous Application (C+D)	D This Period	Materials Presently Stored (not in C or D)	Total Completed and Stored to Date (C + D + E)	% (E) / B	Balance to Finish (B - F)
1000	General Conditions	\$2,603,945.00	\$1,735,000.00	\$140,000.00		\$1,875,000.00	72.8%	\$708,945.00
1001	Bonds & Insurance	\$290,000.00	\$290,000.00			\$290,000.00	100.0%	
1020	General Construction Allowance	\$475,000.00	\$39,928.19	\$4,608.76		\$44,536.95	18.0%	\$189,463.05
1020	Chemical Feed Pump & Skid Allowance	\$75,000.00						\$75,000.00
1020	Raw Water Wetwell Mixer Allowance	\$5,000.00						\$5,000.00
1020	Laboratory Equipment Allowance	\$55,000.00		\$20,314.71		\$20,314.71	36.9%	\$34,685.29
1020	Furniture Allowance	\$35,000.00						\$35,000.00
1020	Computer Allowance	\$30,000.00						\$30,000.00
1020	Security System Allowance	\$40,000.00						\$40,000.00
1020	Utility Service Connection Allowance	\$35,000.00						\$35,000.00
2100	Earthwork General Conditions	\$219,500.00	\$219,500.00			\$219,500.00	100.0%	
2100	Site Preparation	\$43,380.00	\$43,380.00			\$43,380.00	100.0%	
2101	Demolition	\$181,000.00	\$133,522.04			\$133,522.04	73.4%	\$47,477.96
2102	Finish Grading	\$6,170.00						\$6,170.00
2103	Excavation & Backfill	\$419,300.00	\$465,310.00			\$465,310.00	95.0%	\$24,490.00
2104	Remove Pavement & Misc. Structures	\$22,400.00	\$13,000.00			\$13,000.00	57.5%	\$9,400.00
2105	Rock Excavation 5170CY	\$425,000.00	\$57,970.00			\$57,970.00	13.6%	\$167,030.00
2106	Excavation & Embankment	\$102,700.00	\$102,700.00			\$102,700.00	100.0%	
2107	Erosion & Sediment Control	\$33,150.00	\$19,116.70			\$19,116.70	57.7%	\$14,033.30
2108	Site Utilities	\$968,700.00	\$968,700.00			\$968,700.00	100.0%	
2109	Roads, Walks & Cuts	\$267,900.00						\$267,900.00
2110	Turf Restoration & Plantings	\$50,150.00						\$50,150.00
2111	Earthwork for Decorative Wall	\$70,000.00						\$70,000.00
3300	Cut In Place Concrete-below-include rebar					\$1,245,000.00	100.0%	
3300	Classifiers Concrete	\$1,245,000.00	\$1,245,000.00					\$620,000.00
3300	Damages	\$620,000.00				\$2,140,000.00	90.1%	\$225,000.00
3300	Aeration Basins	\$2,375,000.00	\$2,690,000.00	\$30,000.00		\$452,500.00	95.3%	\$22,500.00
3300	Operations	\$475,000.00	\$392,500.00	\$60,000.00		\$815,000.00	100.0%	
3300	Biosolids	\$815,000.00						\$475,000.00
3300	Chlorine Contact	\$475,000.00						\$1,321,260.00
3310	Concrete Decorative Walls	\$1,321,260.00						\$520,700.00
3410	All Precast	\$555,000.00	\$200,774.20	\$113,725.80		\$314,500.00	58.8%	\$413,500.00
4100	Unit Masonry Assemblies	\$840,000.00	\$424,132.00	\$2,468.00		\$426,600.00	50.8%	\$761,160.57
4100	Metal	\$985,000.00	\$56,339.43	\$52,500.00		\$103,839.43	15.0%	\$555,000.00
4100	Rough Carpentry	\$55,000.00				\$16,000.00	23.5%	\$39,000.00
7100	Dampproofing	\$68,000.00	\$4,500.00	\$11,500.00		\$17,000.00	25.0%	\$51,000.00
7100	Vapor Barrier	\$75,000.00						\$75,000.00
7335	Fully Adhered Membrane Roof System	\$675,000.00				\$81,000.00	12.0%	\$594,000.00
7900	Caulking & Sealants	\$15,000.00						\$15,000.00
8110	Doors & Frames	\$130,000.00	\$30,000.00	\$15,000.00		\$45,000.00	34.6%	\$95,000.00
8300	O.H. Doors	\$60,000.00				\$2,496.00	8.3%	\$57,504.00
8501	Windows	\$39,000.00				\$2,496.00	23.5%	\$36,504.00
9900	Painting	\$610,000.00	\$143,466.00			\$143,466.00	23.5%	\$466,534.00
10999	Division 10	\$25,000.00				\$33,427.00	100.0%	
11240	Chemical Feed	\$133,708.00				\$33,427.00	25.0%	\$100,281.00
11240	Hydraulic Gates	\$80,000.00						\$80,000.00
11310	Centrifugal Wastewater Pumps	\$100,000.00	\$99,200.00			\$148,800.00	148.8%	\$32,000.00
11315	Rotary Lobe Pump	\$125,000.00				\$125,000.00	100.0%	
11318	Screw Impeller Centrifugal Pumps	\$440,000.00				\$90,925.00	100.0%	\$349,075.00
11320	Grit Removal	\$90,925.00	\$90,925.00			\$192,000.00	100.0%	\$101,075.00
11330	Fine Screen	\$178,000.00	\$178,000.00			\$178,000.00	100.0%	
11335	Jet Mixing Aeration System	\$540,000.00	\$540,000.00			\$540,000.00	100.0%	
11352	Chlorine Equipment	\$60,000.00				\$60,000.00	100.0%	
11374	Fine Feed Membrane Aeration Equipment	\$60,000.00				\$60,000.00	100.0%	
11376	High Efficiency Blower System	\$750,000.00						\$750,000.00
11384	Rotary Drum Thickener	\$155,000.00						\$155,000.00
11386	Rapid Mixers	\$48,000.00				\$48,000.00	100.0%	
11387	Soluble Mixers	\$25,000.00				\$25,000.00	100.0%	
11600	Automatic Sampler	\$17,000.00				\$17,000.00	100.0%	
12346	Casework	\$55,000.00				\$211,000.00	100.0%	
13126	Circular Tank Covers	\$211,000.00	\$211,000.00			\$1,500,000.00	100.0%	
13216	Precast Concrete Water Tanks	\$1,500,000.00	\$60,000.00			\$60,000.00	100.0%	
13900	FRP Baffles & Weirs	\$25,000.00						\$25,000.00
14300	Hoists							
15000	Mechanical							
15001	Mechanical & General Conditions	\$168,565.00	\$72,047.78	\$5,000.00		\$77,047.78	45.7%	\$91,517.22
15002	Burial Process Pipe	\$175,000.00	\$175,000.00			\$175,000.00	100.0%	
15003	Flanged Process Pipe	\$314,000.00	\$166,045.39			\$166,045.39	52.9%	\$147,954.61
15004	Process Flanged Fittings	\$216,000.00	\$118,540.00			\$118,540.00	54.9%	\$97,460.00
15005	Process Valves	\$305,000.00	\$59,110.98	\$179,000.00		\$238,110.98	78.1%	\$66,889.02
15006	Process Pipe Labor	\$125,000.00	\$60,000.00	\$26,000.00		\$86,000.00	68.8%	\$39,000.00
15007	Stainless Pipe Material	\$34,000.00						\$16,000.00
15008	Stainless Pipe Labor	\$16,000.00						\$15,600.00
15009	Gas Piping	\$15,600.00						\$78,000.00
15010	Aeration Piping Install	\$78,000.00						\$34,000.00
15011	Pipe Supports & Hangers	\$34,000.00						\$18,000.00
15012	Sampler Piping	\$3,800.00						\$32,000.00
15013	Pipe Dens	\$32,000.00						\$16,000.00
15014	Chem Feed Material	\$16,600.00						\$17,600.00
15015	Chem Feed Labor	\$17,600.00						\$34,050.00
15016	Mechanical Equipment Install	\$31,625.00						\$31,625.00
15017	Fabricated Ductwork	\$22,000.00						\$32,000.00
15018	Duct Field Material	\$121,000.00	\$36,300.00			\$36,300.00	30.0%	\$84,700.00
15019	Plumbing Material	\$17,050.00						\$17,050.00
15020	Insulation Material	\$85,217.00	\$26,664.00			\$44,440.00	52.1%	\$40,777.00
15021	Plumbing Labor	\$175,405.00	\$35,081.20			\$35,081.20	20.0%	\$140,323.80
15022	Insulation Labor	\$38,955.00						\$38,955.00
15023	Ventilation Equipment	\$177,760.00				\$177,760.00	100.0%	
15024	Plumbing Fixtures/Equipment	\$93,170.00	\$46,585.00			\$46,585.00	50.0%	\$46,585.00
15025	Refrigeration Piping/Start-up	\$15,730.00						\$15,730.00
15026	T&B	\$9,456.00						\$9,456.00
15027	Temp Control Sub	\$137,006.00	\$13,700.00			\$50,692.22	47.0%	\$73,613.78
16000	Electrical							
16001	Permit	\$2,500.00	\$2,500.00			\$2,500.00	100.0%	
16002	Mobilization	\$50,000.00	\$50,000.00			\$50,000.00	100.0%	
16003	Temp Power/Lighting	\$25,000.00		\$2,000.00		\$16,000.00	64.0%	\$9,000.00
16004	Site Electrical	\$407,310.00	\$95,500.00			\$95,500.00	23.4%	\$311,810.00
16005	Site Lighting	\$58,116.00						\$58,116.00
16006	Foot Candles	\$47,684.00						\$47,684.00
16007	Aeration Basins	\$37,476.00						\$37,476.00
16008	Operations Building	\$196,343.00	\$54,500.00			\$54,500.00	27.8%	\$141,843.00
16009	Storage Garage	\$49,873.00						\$49,873.00
16010	Biosolids Building	\$214,073.00						\$214,073.00
16011	Pre Treatment	\$5,000.00				\$2,000.00	60.0%	\$3,000.00
16012	Existing Pre Treatment	\$18,913.00	\$24,500.00			\$24,500.00	129.5%	\$6,587.00
16013	Existing Filter Building	\$142,976.00	\$20,500.00			\$20,500.00	14.3%	\$122,476.00
16014	Wall Lighting	\$45,857.00						\$45,857.00
16015	Equipment	\$14,078.00						\$14,078.00
16016	Service	\$160,937.00						\$160,937.00
16017	Lighting Fixtures Material	\$214,200.00	\$88,261.00			\$135,939.00	100.0%	
16018	Gar	\$206,721.00				\$91,258.00	61.3%	\$77,963.00
16019	Cabinet Unit Heaters	\$34,320.00				\$34,320.00	100.0%	
16020	Generator	\$278,777.00						\$278,777.00
16021	Integrator	\$136,810.00	\$133,000.00			\$133,000.00	97.2%	\$3,810.00
16022	Integrator Materials	\$418,834.00	\$115,000.00			\$207,487.00	72.0%	\$56,147.00
16023	Integrator Hardware	\$139,611.00				\$41,358.00	29.6%	\$98,253.00
16024	Integrator Start-up	\$178,109.00						\$178,109.00
Totals		\$19,297,715.00	\$12,935,838.91	\$918,017.37	\$1,284,039.53	\$15,377,885.71		\$14,019,829.29



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

<b>Originating Staff:</b> Miranda Pietila	<b>Department:</b> Sewer Fund	<b>Date:</b> 04/10/2023
<b>Agenda Item Subject:</b> Consider approving invoice to Bolton & Menk for professional services for the Wastewater Treatment Plant Project for \$40,953.35.	<b>Fiscal Impact:</b> Funds are budgeted for the Wastewater Treatment Plant Project	
<b>BACKGROUND:</b> Submitting invoice for Bolton & Menk engineering services for \$40,953.35 from February 18 <sup>th</sup> to March 17 <sup>th</sup> 2023 for construction engineering services of the Wastewater Treatment Plant Project. Total engineering contract for construction services are \$1,395,000, remaining funds are \$864,027.14.		
<b>COUNCIL ACTION REQUESTED:</b> Approve invoice for \$40,953.35 to Bolton & Menk.		
<b>RECOMMENDATION:</b> Approve invoice for \$40,953.35 to Bolton & Menk.		
<b>ATTACHMENTS:</b> Invoice from Bolton & Menk		





Real People. Real Solutions.

Please Remit To: Bolton & Menk, Inc.  
1960 Premier Drive | Mankato, MN 56001-5900  
507-625-4171 | 507-625-4177 (fax)

Payment by Credit Card Available Online at [www.Bolton-Menk.com](http://www.Bolton-Menk.com)  
To Ensure Proper Credit, Provide Invoice Numbers with Payment

City of Two Harbors  
Miranda Pietila, Finance Director  
522 First Ave  
Two Harbors, MN 55616-1504

March 24, 2023  
Project No: M24.117177  
Invoice No: 0309084  
Client Account: TWOHARB\_CI\_MN

**Two Harbors/WWTF Engineering****Professional Services from February 18, 2023 to March 17, 2023**

Construction Services (005)

**Professional Services**

	Hours	Amount
Principal	10.50	2,079.00
Administrative	8.00	519.00
Design Engineer	23.50	3,243.00
Senior Principal	2.50	620.00
Project Engineer	41.50	7,387.00
Technician	162.00	24,786.00
Electrical Engineer	3.00	394.35
Architect	15.00	1,925.00

**Total Labor** **40,953.35**

**Total this Task** **\$40,953.35**

**Total this Invoice** **\$40,953.35**





**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

<b>Originating Staff:</b> Miranda Pietila	<b>Department:</b> Liquor Fund	<b>Date:</b> 04/10/2023
<b>Agenda Item Subject:</b> Consider approving the proposal from J & M Displays for fireworks on Tuesday, July 4, 2023 for \$13,000.	<b>Fiscal Impact:</b> Funds are budgeted for in the Liquor Store Fund	
<b>BACKGROUND:</b> J&M Displays, formally Pryotechnic Displays, has provided fireworks to the City since 2016. There is a \$1,000 increase from 2022 to 2023. Administration supports the increase to \$13,000. The designated rain day will be the fireworks will be [REDACTED].		
<b>Agenda Item Subject:</b> Approve proposal from J & M Displays for fireworks on Tuesday, July 4, 2023 for \$13,000.		
<b>RECOMMENDATION:</b> Approve proposal from J & M Displays for fireworks on Tuesday, July 4, 2023 for \$13,000.		
<b>ATTACHMENTS:</b> Contract from J & M Displays		

Agenda Item # CA 8

Meeting Date 4/10/23



## FIREWORKS DISPLAY AGREEMENT

THIS AGREEMENT is made and entered into this 27th day of March, 2023, by and between J&M Displays, Inc., an Iowa corporation, having its principal place of business at Yarmouth, Iowa, including its employees, owners, and agents, hereinafter referred to as "Seller", and City of Two Harbors, hereinafter referred to as "Buyer".

Seller shall furnish to Buyer one (1) fireworks display, as per the \$ 13,000.00 program (the "Fireworks Program") submitted to and accepted by the Buyer, and which by reference is made a part hereof as Exhibit A. The display is to take place on the evening of July 4, 2023 at approximately 10:00 p.m., weather permitting.

### IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE PARTIES AS FOLLOWS:

#### I. FIRING OF DISPLAY

- a. Seller agrees to furnish all necessary fireworks display materials and personnel for a professional fireworks display in accordance with the Fireworks Program approved by the Parties. Seller agrees to comply with all local, state, and federal regulations and guidelines pertaining to the storing and displaying of fireworks. Seller, with Buyer's assistance, shall obtain any necessary permits for the fireworks display.
- b. Buyer Agrees to provide:
  - i. Sufficient area for the display, including a minimum spectator set back as determined by Seller;
  - ii. Protection of the display area by roping off or similar facility;
  - iii. Adequate police or security protection to prevent spectators from entering the display area; and
  - iv. Persons to assist in the inspection and cleanup of fireworks debris in the fallout zone of the shoot site at first light in the morning following the display;
- c. The cost and acquisition of any site-specific materials or display restrictions (such as sand or the use of a barge) shall be discussed prior to adoption of this Agreement, and the Party responsible for any such acquisition and cost shall be specifically laid out in the Fireworks Program (Exhibit A).
- d. Buyer understands that its failure to provide an appropriate area for the fireworks display, with requirement minimum setbacks and security, may result in a change to Buyer's display (such as a restriction on the type(s) of products which can be utilized) or a cancellation of the display for safety reasons, at Seller's sole discretion. In such event, if Buyer cannot immediately remedy the setback or security concern prior to the Display time noted above, Buyer remains responsible for the entire purchase price of the display regardless of any limitation or cancellation of the display.

#### II. PAYMENT. The Buyer shall pay to the Seller (check one of the below options):

- ☒ The sum of \$ \_\_\_\_\_ as a down payment upon execution of this Agreement. The balance of \$ 13,000.00 shall be due and payable within fifteen (15) days after the date of the fireworks display. A service charge of one and one-half percent (1 ½ %) per month shall be added to the unpaid balance if the account is not paid in full with the fifteen (15) days from the date of the display. If this account remains unpaid and is turned over to a collection agency for non-payment, all fees incurred in collecting the balance will be at the Buyer's expense. All returned checks will be assessed a \$30.00 fee.
- ☐ \$ \_\_\_\_\_ in full by \_\_\_\_\_ (70 days prior to the display date). The Buyer will receive 8% prepayment bonus product in this fireworks display.
- ☐ \$ \_\_\_\_\_ in full by \_\_\_\_\_ (30 days prior to the display date). The Buyer will receive 5% prepayment bonus product in this fireworks display.

III. LOYALTY PROGRAM

- a. Seller has in place a bonus system for Buyer's who purchase their fireworks displays exclusively from Seller year-to-year. The full terms of Seller's loyalty program have been provided to Buyer with the Program and are available on J&M's website.
- b. Pursuant to Buyer's status in the loyalty program, Buyer will receive an additional ☐ 5% ☐ 10% ☒ 15% (check one) bonus product for this display.

IV. POSTPONEMENT/CANCELLATION

- a. Rain Date: Should inclement weather prevent the firing of the display on the date intended, the Parties agree to a mutually convenient rain date of \_\_\_\_\_ or another date as agreed to by both Parties. Once display set-up has begun, the determination to cancel the fireworks display because of inclement weather or unsafe weather conditions shall rest within the sole discretion of the Seller, the Authority Having Jurisdiction, and the Seller's lead pyrotechnician.
- b. Except as specifically provided for elsewhere in this Agreement, neither Party will be liable for any failure or delay in performing an obligation under this Agreement that is due to any of the following causes (hereinafter referred to as "Force Majeure"), to the extent beyond the Party's reasonable control: acts of God, accident, riots, public disturbances including but not limited to an active-shooter situation, war, terrorist act, epidemic, pandemic, quarantine, civil commotion, breakdown of communication facilities, natural catastrophes, governmental acts or omissions, changes in laws or regulations, national strikes, fire, explosion, or generalized lack of availability of raw materials or energy.
- c. Disruption of Services due to Covid-19, supply chain disruptions, and public health. Fireworks displays and related events are prone to cancellation due to the ongoing and unforeseeable nature of the Covid-19 pandemic and related health issues, government intervention (such as stay-at-home orders or restrictions on gatherings), and unavailability of supplies and personnel. As such, Seller will work with all customers to ensure a timely and safe display, but due to circumstances outside Seller's and Buyer's control, certain fireworks displays may have to be cancelled or rescheduled with limited notice. Each Party's obligations to perform hereunder will be excused in the case of a Force Majeure Event, which is defined to include (but is not limited to) supply chain disruptions which prevent Seller from obtaining the necessary materials to perform the Display; medical conditions which result in quarantine or similar limitations, or restrictions on travel or congregation in the metropolitan area where the Display is scheduled to be held; and death, serious illness or incapacity of one or more of the display Shoot Team member(s) which renders it impossible, unsafe, or not reasonably practical for the Shoot Team to perform the display.

A governmental or municipal Buyer, who in its discretion and control, acts or adopts a restriction on public gatherings shall not be relieved of its obligations under the Force Majeure provisions of this Agreement. A Buyer who anticipates any such restriction or potential cancellation shall immediately notify and contact Seller to discuss alternative arrangements.

- d. Unless specified above: Displays postponed to an alternate date will be charged and additional 15% of the total contract price for additional expenses incurred in presenting the display on an alternate date; for Displays canceled and not rescheduled within the same calendar year, Seller shall be entitled to 20% of the contract price for out-of-pocket expenses incurred in preparation for the display.

V. INSURANCE and LIMITATIONS OF LIABILITY

- a. Seller agrees to provide, at its expense, general liability insurance coverage in an amount not less than \$10,000,000, and within two (2) weeks prior to the date of the fireworks display, shall submit to Buyer, if requested in writing, a certificate of insurance. All entities listed on the certificate of insurance will be deemed an additional insured. In the event of a claim by Buyer, the applicable deductible shall be paid by the Seller.

The Seller agrees to defend, indemnify, and hold harmless the Buyer and its agents and employees from and against all claims, costs, judgments, damages and expenses, including reasonable attorney's fees that



may or shall arise out of any negligent or wrongful act or omission by the Seller related to the performance of the fireworks for the Buyer. The Buyer agrees to give the Seller prompt notice of any claims or demands and to cooperate with the Seller or its successors in interest or assigns, if any, in the defense of any such claims and/or demands.

- b. Separate from, and in addition to Seller's insurance of the fireworks, Buyer agrees to provide, at its expense, a general liability policy or "special event" insurance coverage, in an amount sufficient to meet or exceed municipality or industry standards and all applicable requirements of local, state, and federal law. For any injury or property claims that may arise during the course of Buyer's event, not arising out of Seller's acts or the performance of the fireworks, Buyer's insurance shall be primary. Buyer agrees to defend, indemnify, and hold harmless the Seller and its agents and employees from and against all such claims, costs, judgments, damages and expenses, including reasonable attorney's fees that may or shall arise out of any negligent or wrongful act or omission by the Buyer or third-parties occurring during the course of Buyer's event.
- c. In no event shall Seller's liability to Buyer arising out of or related to this Agreement, whether arising out of or related to breach of contract, tort (including negligence), or otherwise, exceed the aggregate amount of insurance coverage as described in this section. Notwithstanding any provisions to the contrary, in no event shall either Party be liable to the other, or to any third party, for any loss of use, revenue or profit, or for any consequential, incidental, indirect, exemplary, special, or punitive damages whether arising out of breach of contract, tort (including negligence), or otherwise, regardless of whether such damage was foreseeable and whether or not such party has been advised of the possibility of such damages.

VI. Each Party has read all of the provisions of this Agreement, they understand all of its provisions, and agree to be bound by them. This written contract, and its Exhibits, contains the entire agreement of the Parties and modifies and supersedes all prior agreements or negotiations, all of which are merged into and incorporated into this Agreement. If any provision of this Agreement is held invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this agreement.

VII. Choice of Law, Jurisdiction, and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa without regard to conflict-of-law principles, except as otherwise specifically required for the storing and displaying of fireworks as set forth by State and Federal law. Notwithstanding, the Parties must bring any legal or equitable action or proceeding arising under or related to this Agreement exclusively in the Iowa District Court in and for Des Moines County, Iowa. The Iowa District Court in and for Des Moines County, Iowa shall have exclusive jurisdiction to decide any disputes arising out of or related to this Agreement. Each party knowingly and voluntarily consents to and expressly waives any objection or defense to personal jurisdiction, improper or inconvenient venue, or inconvenient forum in the Iowa District Court in and for Des Moines County, Iowa.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written above.

SELLER

BUYER

BY: \_\_\_\_\_

BY: \_\_\_\_\_

ROLE: \_\_\_\_\_

ROLE: \_\_\_\_\_

J&M Displays, Inc.

ENTITY: \_\_\_\_\_

Please include the **DISPLAY INFORMATION FORM** with this Agreement so your order is processed accurately.

# TWO HARBORS CITY COUNCIL

## AGENDA ITEM SUMMARY

**AGENDA ITEM SUBJECT:** MN DNR and Two Harbors Area Fund grant application

**ORIGINATING SOURCE/DEPARTMENT:** Fire Department

**FUNDING SOURCE:** 2023 budget (50% City of Two Harbors, 38% Lake County, and 12% Silver Creek Township)

**BACKGROUND:** The fire department is requesting approval to submit a \$2500 grant application to the MN DNR Volunteer Rural Fire Department grant program and a \$2500 grant application to the Two Harbors Area Fund. If funded, the grants would cover updated PPE for wildland firefighting at no cost to the City.

**ESTIMATED DATE OF COMPLETION:** September 2023

**COMMITTEE/COMMISSION RECOMMENDATION:**

**ADMINISTRATION/STAFF RECOMMENDED COUNCIL ACTION:**

Agenda Item # CA 9+10 Meeting Date: 4/10/23

# TWO HARBORS CITY COUNCIL

## AGENDA ITEM SUMMARY

**AGENDA ITEM SUBJECT:** Fire Department Instructors Conference (FDIC)

**ORIGINATING SOURCE/DEPARTMENT:** Fire Department

**FUNDING SOURCE:** 2023 budget (50% City of Two Harbors, 38% Lake County, and 12% Silver Creek Township) - conference to be reimbursed by MBFTE

**BACKGROUND:** The fire department is requesting approval to send Casey Fitzpatrick and Ethan Casady to the FDIC conference in Indianapolis. The conference registration will be \$1877 and will be reimbursed by MBFTE. The hotel cost is expected to be \$1200 and will be from the fire department travel/training budget. Transportation to and from Indianapolis will be covered by the firefighters attending the conference.

**ESTIMATED DATE OF COMPLETION:** April 24-29, 2023

**COMMITTEE/COMMISSION RECOMMENDATION:**

**ADMINISTRATION/STAFF RECOMMENDED COUNCIL ACTION:**

Agenda Item # CA 11 Meeting Date: 4/10/23



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

Originating Staff: <b>P. Nordean</b>	Department: <b>Administration</b>	Date: <b>4/7/23</b>
Agenda Item Subject: <b>American Legion Sundays</b>	Fiscal Impact:	
<b>BACKGROUND:</b> Each holder of an On-Sale Club Liquor License is allowed to be open 12 Sundays per calendar year. The American Legion has requested to be open on the following Sundays: July 2, 9, 16, 23 and 30; August 6, 13, 20 and 27 and September 3.		
<b>COUNCIL ACTION REQUESTED:</b> Approve the request of the American Legion to be open on the Sundays they have requested.		
<b>RECOMMENDATION:</b> Staff recommends approval of the Council action requested.		
<b>ATTACHMENTS:</b>		

April 3, 2023

City Council/Patricia Nordean

The American Legion would like to be open the following Sundays  
in 2023:

July 2, 9, 16, 23, 30

August 6, 13, 20, 27

September 3

This would leave us with 2 Sunday options left in 2023. Thank you for  
your consideration.

Amy Carlson



Lounge Manager







**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

Originating Staff: <b>P. Nordean</b>	Department: <b>Administration</b>	Date: <b>4/7/23</b>
Agenda Item Subject: <b>Resignation of Lee Senst</b>	Fiscal Impact:	
<b>BACKGROUND:</b> Lee Senst has submitted his intention to resign from THEDA.		
<b>COUNCIL ACTION REQUESTED:</b> Accept his resignation, with regret and authorize a letter of appreciation for his service.		
<b>RECOMMENDATION:</b> Council action requested is the recommendation of staff.		
<b>ATTACHMENTS:</b>		

Agenda Item # CA 13

Meeting Date 4/10/23

## **Patty Nordean**

---

**From:** Lee Senst <lpsenst@msn.com>  
**Sent:** Monday, April 3, 2023 12:38 PM  
**To:** Patty Nordean  
**Subject:** Re: THEDA

my apologies I just saw this email. I have recently had trouble with a setting getting changed and I am weeding out thousands of email from the last month or more.

At this point since my term has ended I will not seek reappointment. At some time in the coming year I would consider another appointment if one was open. I am also interested in the Planning and Zoning board. I did sit on there for quite a few years and have now been off of it for about 4 years and would consider an appointment there if one was available.

Lee Senst

---

**From:** Patty Nordean <pnordean@twoharborsmn.gov>  
**Sent:** Wednesday, March 22, 2023 11:48 AM  
**To:** Lee Senst (lpsenst@msn.com) <lpsenst@msn.com>  
**Subject:** THEDA

Hi Lee:

I am in the process of preparing the agenda for Monday's City Council meeting. As a part of that meeting, we will be re-appointing commission members whose terms have expired. I'm showing that your term will expire this month. Can you please let me know whether or not you are interested in serving another term on THEDA? I apologize for the short notice, but I'm hoping to get your response by the end of the day tomorrow.

Thank you,

## **Patricia Nordean**

Administrator

**City of Two Harbors**

522 First Avenue

Two Harbors, MN 55616

[pnordean@twoharborsmn.gov](mailto:pnordean@twoharborsmn.gov)

Ph: (218) 834-8806

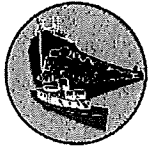
Fax: (218) 834-2674



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

Originating Staff: <b>P. Nordean</b>	Department: <b>Administration</b>	Date: <b>4/7/23</b>
Agenda Item Subject: <b>Special Meeting</b>	Fiscal Impact:	
<b>BACKGROUND:</b> The City Council acts as the City Canvassing Board. Following the special mayoral election scheduled for April 11, the canvassing board needs to meet to canvass the results within 3-10 days after a general election. The candidate receiving the highest number of votes is then certified, but there is a 7- day period where there can be objections to the results or recounts may be requested.		
<b>COUNCIL ACTION REQUESTED:</b> Schedule a special meeting of the City Council for the purpose of canvassing and certifying the results of the special election to be held on April 11.		
<b>RECOMMENDATION:</b> Schedule the special meeting.		
<b>ATTACHMENTS:</b>		



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

Originating Staff: <b>P. Nordean</b>	Department: <b>Administration</b>	Date: <b>4/7/23</b>
Agenda Item Subject: <b>Declaring 3<sup>rd</sup> reading of ordinance regarding legal counsel for City HRA.</b>	Fiscal Impact:	
<b>BACKGROUND:</b> There have been two readings of the Ordinance Amending Section 2.51 and 2.40 of the Two Harbors City Code as they relate to legal counsel. If the Council intends to adopt the ordinance, they must declare third and final reading. The ordinance does not become effective until 30 days after it is adopted and it has been published.		
<b>COUNCIL ACTION REQUESTED:</b> Declare third and final reading of proposed ordinance. <b>RECOMMENDATION:</b>		
<b>ATTACHMENTS:</b>		



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& MENK**

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Suite 350  
Duluth, MN 55811

Ph: (218) 729-5939  
Bolton-Menk.com

## MEMORANDUM

**Date:** April 3, 2023  
**To:** Mayor and City Council  
**From:** Jennifer Selchow, P.E., Bolton & Menk, Inc.  
**Subject:** Two Harbors WWTF Improvements  
Project No.: M24.117177

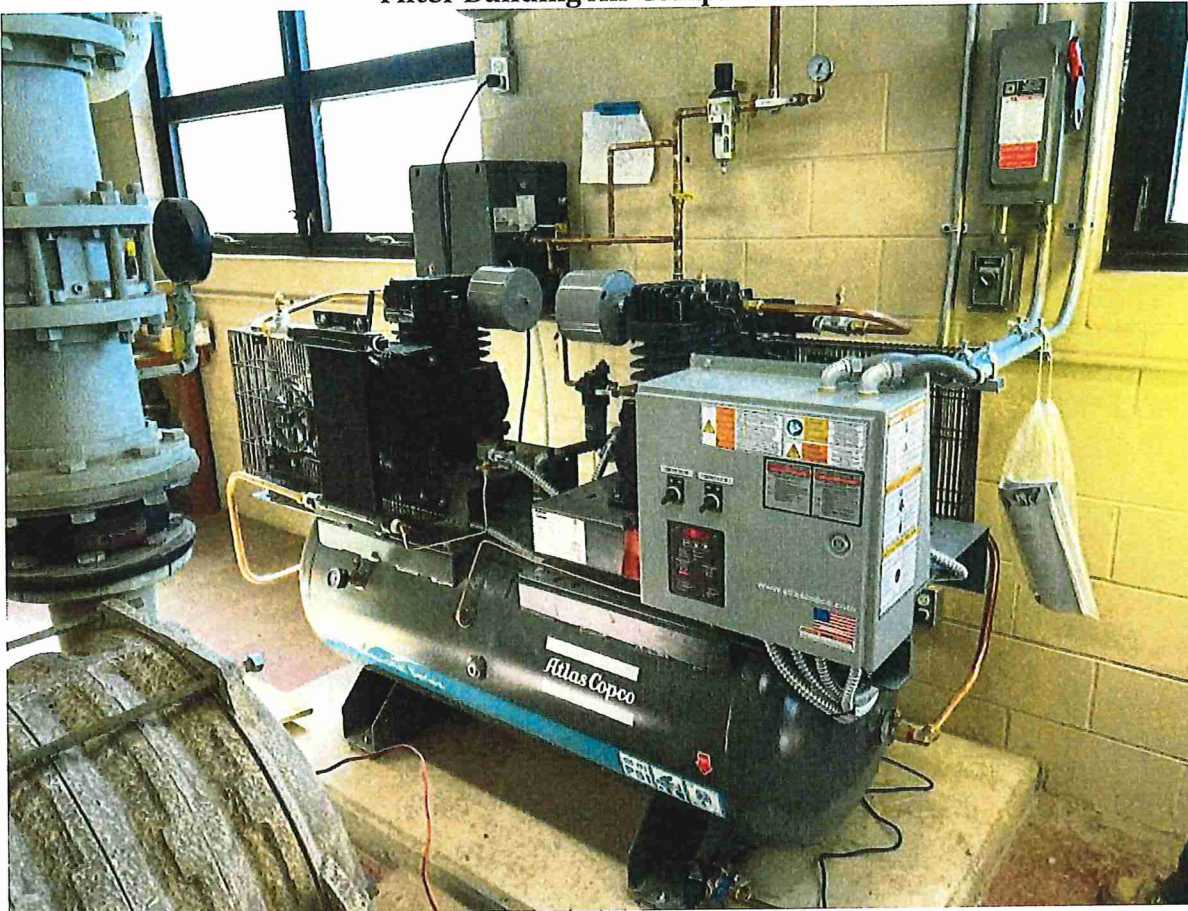
Since the last progress update and pay request, the contractor has completed the following work:

- Concrete masonry work continued in Operations Building
- Precast concrete planks set on Operations Building roof
- Replaced doors in Filter Building
- Replaced and calibrated raw wastewater pump in Pretreatment Building
- Poured concrete for Blower Room floor in Filter Building
- Installed air compressor in Filter Building
- Installed aeration equipment in Biosolids Tank

Construction photos are included at the end of this memorandum for your information and reference.

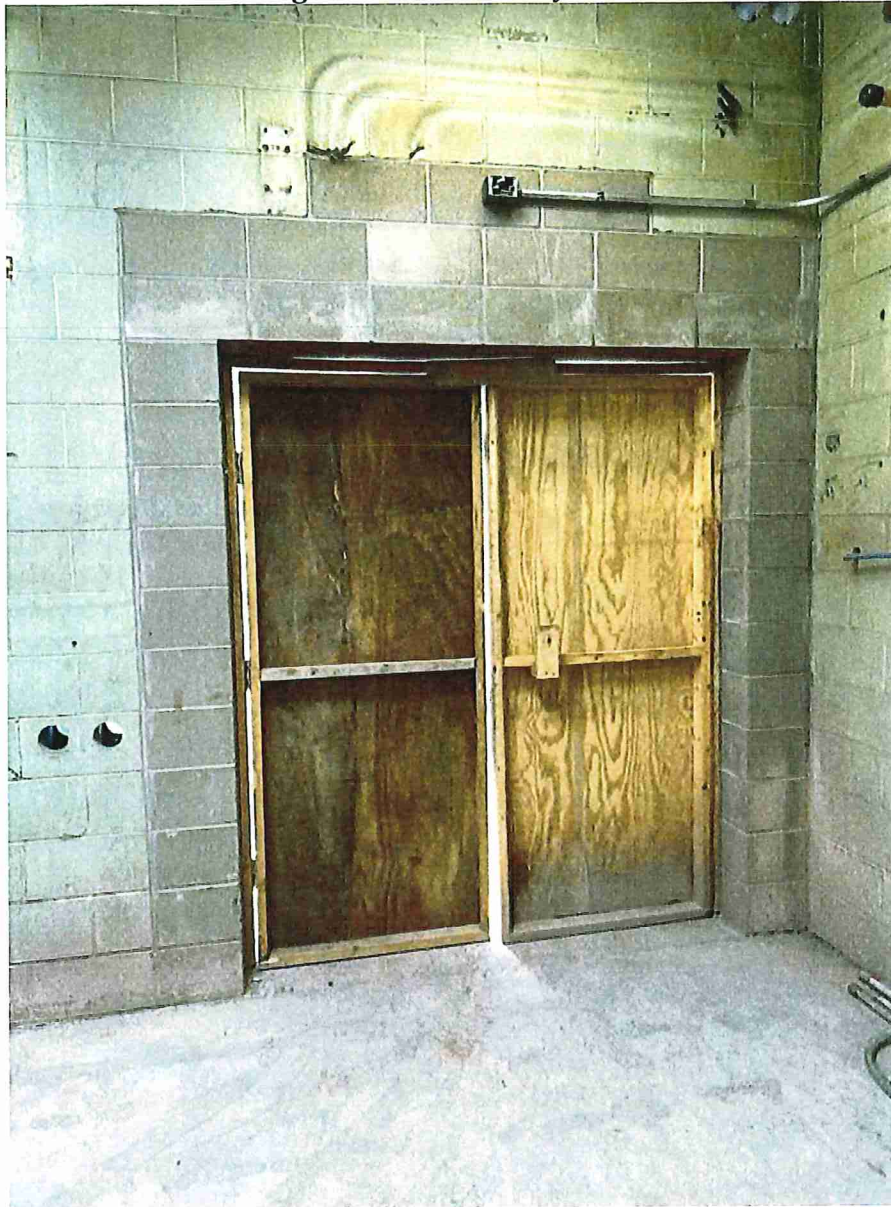
comm #1 4/10/23

### Filter Building Air Compressor





**Filter Building Concrete Masonry Work for Doors**



### Filter Building New Concrete Floor

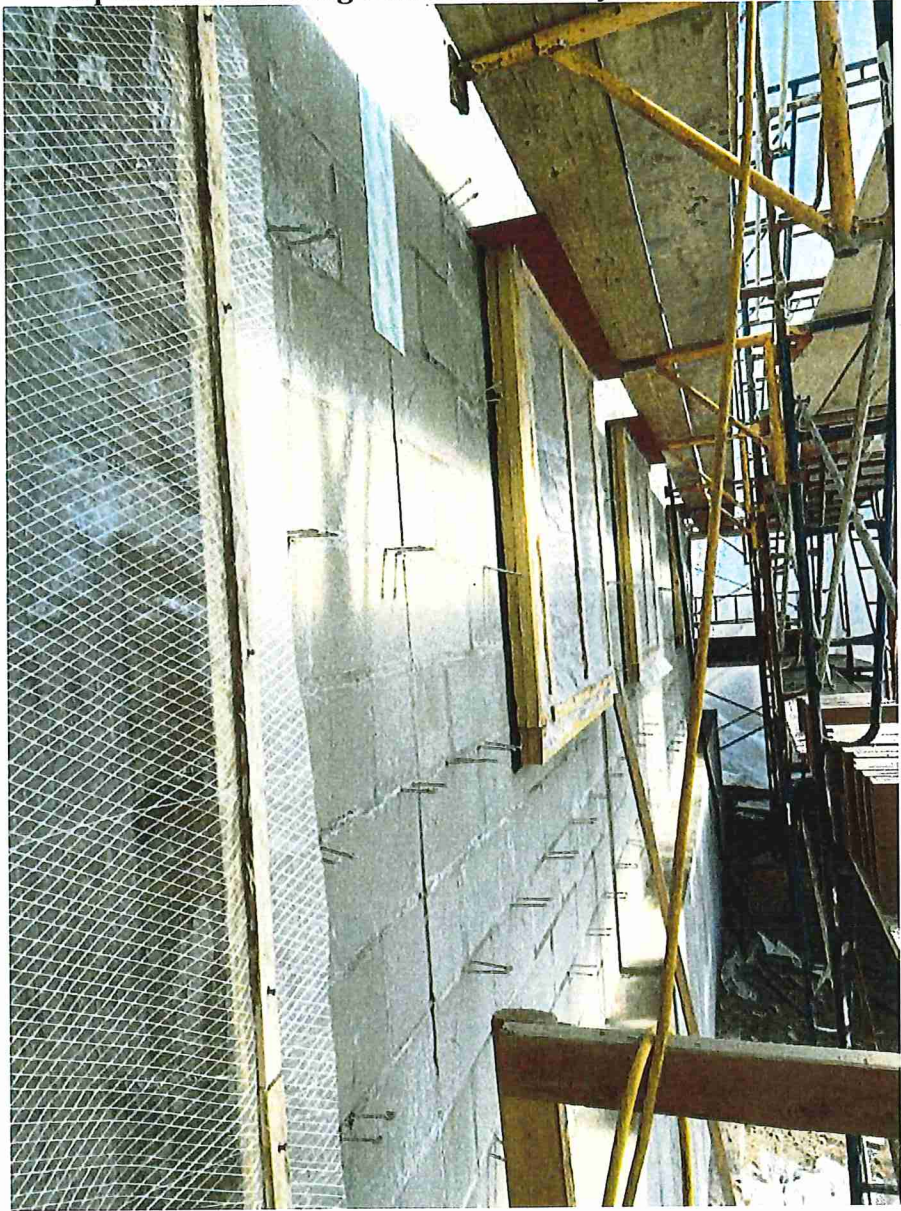




**Operations Building Concrete Masonry Work Interior**



**Operations Building Concrete Masonry Work Exterior**







**CITY OF TWO HARBORS**  
**City Council**

**AGENDA ITEM**  
**COVER SHEET**

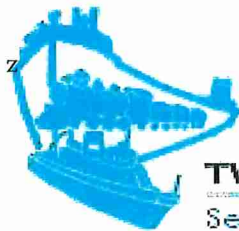
Originating Staff: Justin Otsea, Zoning Administrator	Department: Planning and Zoning	Date: 4/5/23
Agenda Item Subject: Zoning Definition Change	Fiscal Impact: None	
<b>BACKGROUND:</b> A public hearing was held on March 7 <sup>th</sup> , 2023, around a newly proposed definition for 'Hotels' and 'Motels' in the City of Two Harbors Zoning Code. At the hearing, the Planning Commission recommended adoption of the new text unanimously.		
<b>ACTION REQUESTED:</b> Approval of the new definitions of hotel and motels to be added to the zoning code.		
<b>RECOMMENDATION:</b> Approval of the new definitions to be included in the zoning code.		
<b>ATTACHMENTS:</b> Text, Public Hearing Minutes and Resolution.		

Agenda Item #

NB #1

Meeting Date

4/10/23



## TWO HARBORS PLANNING COMMISSION

Serving the People of Two Harbors

522 First Avenue  
Two Harbors, Minnesota  
Phone 218-834-5631  
FAX 218-834-2674

### MEMORANDUM

To: Two Harbors City Council  
From: Justin Otsea, ARDC  
Date: April 5<sup>th</sup>, 2023  
Subject: Hotel/Motel Definition Considerations

---

#### Existing Definitions

35. **"Hotel"** - A building in which temporary lodging is provided for and offered publicly to transient motorists, guests or travelers for compensation and does not include any unit in a common interest community.

60. **"Motel"** - A building or group of buildings in which temporary lodging is provided for and offered publicly to transient motorists, guests or travelers for compensation and does not include any unit in a common interest community.

#### Example Definitions

**Hotel or motel.** A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation, and including both short-stay and extended stay facilities, and that may offer customarily incidental services. A hotel must have a minimum of five separate habitable units, and must have a reception desk staffed at all times.

#### Potential Proposed Definitions

35. **"Hotel"** - A building in which temporary lodging is provided for and offered publicly to transient motorists, guests or travelers for compensation and does not include any unit in a common interest community and **must have at least three units.**

60. **"Motel"** - A building or group of buildings in which temporary lodging is provided for and offered publicly to transient motorists, guests or travelers for compensation and does not include any unit in a common interest community and **must have at least three units.**

**Two Harbors Planning Commission**  
Meeting Minutes

March 7<sup>th</sup>, 2023

**Present:** Koehler, Glaser, Redmann, Snowdon, Emerson, Nielson

**Absent:** Chapek

**Other:** Bergstad

**Next meeting:** April 4<sup>th</sup>, 2023

---

**I. Call to Order**

Koehler called the meeting to order at 5:33 p.m.

**II. Approval of Agenda**

*Motion by Redmann to approve the agenda. Support by Glaser. Motion approved by all members present and voting.*

**III. Public Hearing-Hotel/Motel Definition-**The chair opened the public hearing. Josh detailed the meeting report referencing the new proposed definitions to hotels and motels including minimum unit requirements. No comments from the public were received.

*Motion by Glaser to approve the new changes definition of Hotel and Motel in the zoning code. Support by Redmann, Motion approved by all members present and voting. The public hearing was adjourned.*

**IV. Meeting Minutes -** *Motion by Emerson to approve the February 28<sup>th</sup>, 2023. Support by Neilson. Motion approved by all members present and voting.*

**V. Public Comments -** Paul Iverson wanted to follow up with the Planning Commission on the vacant building fees. Brief discussion followed, but no direct action from the Planning Commission. Josh noted he'd follow up with Justin to make it a future agenda item when Justin returns.

**VI. Parklets and Social Districts:** Josh detailed parklets and reference a recent request for bringing them back after allowance during the Covid-19 Pandemic. Discussion followed, and the Planning Commission seemed to be supportive of making them permanent on City streets. The Commission Asked staff to review zoning and work with public works and public affairs as appropriate. Josh presented additional information around the concept of Social Districts in Minnesota. Todd provided additional insight on the subject as well. Discussion followed about introducing the idea to the City of Two Harbors. Noted topics included Council to look at legislative opportunities and refer to public safety, public affairs, other relevant committees, Justin to come up boundaries, and forwarding the information to Patty for future discussion.

*Motion Made by Snowdon to study reestablishing the parklets in Two Harbors. Support by Redmann. Motion approved by all members present and voting.*

*Motion made by Redmann to forward Social District information to City Council for further consideration and other above noted follow up. Support by Glaser. Motion approved by all members present and voting.*

**VII. Reports & Communications -** No reports from Planning Staff.

**VIII. Commissioners-** Tom wanted Josh to remind Justin that Planning Commission would like to see some sort of action on the John A Johnson and community has expressed concerns about environmental conditions on Lighthouse Point PUD concept plan.

Next Meeting was set for March 7 at 5:30 p.m.

Motion by Glaser to adjourn. Supported by Emerson . *Motion approved by all members present and voting.*

**Meeting adjourned at 7:09 p.m.** *Minutes Submitted by Justin Otsea, City Planner with assistance from Josh Bergstad, Principal Planner*



**BOLTON  
& MENK**

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Suite 206  
Ramsey, MN 55303-5119

Ph: (763) 433-2851  
Fax: (763) 427-0833  
Bolton-Menk.com

VIA EMAIL

April 10, 2023

Patty Nordean, City Administrator  
City of Two Harbors  
522 First Avenue  
Two Harbors, MN 55616

RE: Bid Evaluation and Construction Services – Water Treatment Plant Improvements  
Two Harbors, Minnesota  
Project No.: M24.119641

Dear Patty,

Two (2) bids summarized in Table 1 were received on February 21, 2023 for the Water Treatment Plant Improvements project. The improvements consist of a new chlorine contact tank, building improvements, pressure relief station replacements, better access to the site for chemical deliveries, trail realignment, and additional parking for the trail.

<b>Table 1: Bid Tabulation</b>		
<b>Two Harbors Water Treatment Plant Improvements</b>		
<b>Bid Item</b>	<b>Lakehead Constructors, Inc.</b>	<b>Magney Construction, Inc.</b>
PRV Station #1	\$182,185.30	\$214,500.00
PRV Station #2	\$523,661.69	\$526,500.00
PRV Station #3	\$506,277.29	\$500,000.00
Parking Lot	\$125,708.00	\$124,500.00
Rock Excavation	\$405,000.00	\$390,000.00
All Remaining Work	\$5,597,376.84	\$5,782,300.00
<b>Construction Subtotal</b>	<b>\$7,340,209.12</b>	<b>\$7,537,800.00</b>

Lakehead Constructors has been the general contractor for the Two Harbors Wastewater Treatment Facility Improvements project. All addenda were received by the contractor and a bid bond for 5% of the bid was included in their bid. Additionally, all required certifications and other documents were included in the bid. Therefore, we recommend the contract be awarded to Lakehead Constructors of Superior, Wisconsin for the total amount of \$7,340,209.12. Enclosed is the notice of award for your use. Please return a copy to me for distribution upon execution.

**Construction Administration Services**

We will provide the following services to facilitate construction of the Water Treatment Plant Improvements and meet all requirements of the Minnesota Department of Health (MDH) and Public Facilities Authority (PFA) for Drinking Water Revolving Fund Projects.

NB#2 4/10/23



Preconstruction services include the following:

- Facilitate completion of contracts between the City and Contractor
- Finalize funding for the project through the MDH and PFA
- Conduct a preconstruction meeting with all interested parties

Construction engineering services include the following:

- Review of contractor submittals
- Construction staking and surveying
- Provide American iron and steel compliance monitoring to meet the requirements of the PFA
- Provide wage compliance monitoring to meet the requirements of the PFA
- Site observation and construction engineering
- Coordination with the MDH
- Conduct monthly progress meetings
- Review pay applications and provide updates to the City Council
- Coordinate construction sequencing and process startup
- Assist with process startup and training

Project closeout services include the following:

- Production of record drawings
- PFA project closeout for grant and loans
- Job completion list and project closeout with contractor

We propose an estimated hourly fee for construction related services as described above. We anticipate 24 months of periodic construction observation and project management. Based on the onsite time and level of service required, we propose a fee of \$618,500 (approximately 8.5% of the construction cost) which will be billed hourly following our standard rates and we will not be exceeded without authorization from the City of Two Harbors. These construction services represent approximately 3,800 hours of engineering, technician, and other technical staff time to complete this project over the course of the next 2 years.

Table 2 summarizes the estimated remaining project costs and current funding package for the project. As shown, the current funding package results in a \$4.839M affordability grant with a loan of approximately \$3.9M.

<b>Table 2: Remaining Project Costs and Funding Package Two Harbors Water Treatment Plant Improvements</b>	
Construction (Lakehead Constructors, Inc.)	\$7,340,209.12
Engineering, Administration, and Legal	\$1,014,000.00
<b>Total Project Cost</b>	<b>\$8,354,209.12</b>
Loan Contingency	\$367,010.46
Funding Secured	\$4,839,000.00
<b>City Financing</b>	<b>\$3,882,219.58</b>

Name: Patty Nordean  
Date: April 10, 2023  
Page: 3

We appreciate the continued opportunity to work with the city on this important project. With the City's approval we are ready to begin construction management activities immediately. Please feel free to contact me at 612-499-0533 if there are any questions prior to the meeting.

Sincerely,

**Bolton & Menk, Inc.**



**Brian Guldán, P.E.**

Principal Environmental Engineer

Enclosure

CC     Miranda Pietila, City of Two Harbors  
         Joseph Rhein, Bolton and Menk, Inc.  
         Jennifer Selchow, Bolton and Menk, Inc.



## NOTICE OF AWARD

Date of Issuance: April 10, 2023  
Owner: City of Two Harbors Owner's Project No.:  
Engineer: Bolton & Menk, Inc. Engineer's Project No.: M24.119641  
Project: Water Treatment Facility Improvements  
Contract Name:  
Bidder: Lakehead Constructors, Inc.  
Bidder's Address: 3801 Winter Street, Superior, WI 54880

You are notified that Owner has accepted your Bid dated 2/21/2023 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

### Water Treatment Facility Improvements

The Contract Price of the awarded Contract is \$7,340,209.12. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

Three (3) unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award or has been transmitted or made available to Bidder electronically.

☐ Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver to Owner three (3) counterparts of the Agreement, signed by Bidder (as Contractor).
2. Deliver with the signed Agreement(s) the Contract security (such as required performance and payment bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
3. Deliver to Owner executed Section 00 51 11 "ADDITIONAL SUBCONTRACTORS LIST" in accordance with Minn. Stat. 16C.285 subd.3 Subclauses (1) to (7). Delivery is a condition precedent to execution of this contract and failure to submit this form shall be cause for the Owner to cancel Award of Contract and declare your Bid security forfeited.
4. Other conditions precedent (if any):

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: City of Two Harbors

By (signature): \_\_\_\_\_

Name (printed): \_\_\_\_\_

Title: \_\_\_\_\_

Copy: Engineer



**CITY OF TWO HARBORS  
CITY COUNCIL**

**AGENDA ITEM  
COVER SHEET**

Originating Staff: <b>P. Nordean</b>	Department: <b>Administration</b>	Date: <b>4/7/23</b>
Agenda Item Subject: <b>Approve Settlement Agreement</b>	Fiscal Impact: <b>\$2,333.73</b>	
<b>BACKGROUND:</b> A settlement agreement has been negotiated between the City of Two Harbors and Tim Hedin regarding the levy for street improvements against his property.		
<b>COUNCIL ACTION REQUESTED:</b> Approve the Settlement Agreement and Mutual Release of all Claims between the City and Timothy J. Hedin and authorizing the Acting Mayor and City Administrator to execute said Settlement Agreement on behalf of the City.		
<b>RECOMMENDATION:</b> Staff recommends the Council action requested.		
<b>ATTACHMENTS:</b>		

Agenda Item # NB#3

Meeting Date 4/10/23

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF LAKE

SIXTH JUDICIAL DISTRICT  
Case Type: Civil – Assessment Appeal

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COURT FILE NO. 38-CV-22-475

Timothy J. Hedin,

Plaintiff,

vs.

The City of Two Harbors, a Minnesota  
municipal corporation and charter city,

Defendant.

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**SETTLEMENT AGREEMENT AND MUTUAL RELEASE OF ALL CLAIMS**

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KNOWN ALL BY THESE PRESENTS that Plaintiff, TIMOTHY J. HEDIN and Defendant, THE CITY OF TWO HARBORS, MN, in consideration of his Plaintiff's promise to release Defendant from all existing and potential claims, causes of action, liabilities and obligations arising out of the street, sidewalk and sewer assessments levied on Plaintiff's property located at 835 6<sup>th</sup> Avenue, Two Harbors, MN, for the 2021-22 Street Improvement Project, the Defendant agrees to remove the street improvement levy against Plaintiff's property in the sum of \$2,333.73.

It is specifically agreed that by reason of agreeing to this compromise settlement, Defendant admits absolutely no liability of any sort, and intends merely to satisfy a contested matter involving a unique assessment situation arising due to the location of Plaintiff's property, and it is further specifically understood that this settlement shall not be construed as an admission of liability on the part of Defendant, liability having at all times been denied.

This release shall be construed and interpreted in accordance with the laws of the state of Minnesota.

In entering into this release, Plaintiff represents that he has had a full and complete opportunity to obtain and receive legal counsel regarding the terms and provisions of this release and that he has either received or waives his right to receive competent and satisfactory legal advice regarding this release.

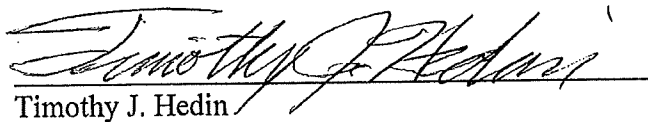
Plaintiff covenants not to sue any other person or entity relative to the subject matter of this dispute.

The parties represent to each other that no promise or inducement has been offered or made except as is contained in this release and that no statement or presentation has been made by anyone except as contained in this release.

The parties agree that they will execute and file the attached Stipulation and Order for Dismissal with Prejudice with the Court, and request that the Court sign the attached Order of Dismissal without further notice or hearing, whereupon the parties stipulate and agree that all matters raised in this action are completely satisfied, settled and discharged, and that this action may be dismissed with prejudice and without further costs to either party.

STATE OF MINNESOTA    )  
                                  )ss.  
COUNTY OF LAKE        )

Pursuant to Minn.Stat. §358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

  
Timothy J. Hedin

STATE OF MINNESOTA    )  
                                  )ss.  
COUNTY OF LAKE        )

Pursuant to Minn.Stat. §358.116, I declare under penalty of perjury that everything I have stated in this document is true and correct.

**City of Two Harbors**

\_\_\_\_\_  
Ben Redden  
Acting Mayor

\_\_\_\_\_  
Patricia Nordean  
City Administrator