



Board of Commissioners

Agenda

15 West Kellogg Blvd.
Saint Paul, MN 55102
651-266-9200

October 6, 2020 - 9 a.m.

Council Chambers - Courthouse Room 300

ROLL CALL

PLEDGE OF ALLEGIANCE

1. **Agenda of October 6, 2020 is Presented for Approval.** [2020-405](#)

Sponsors: County Managers Office

Approve the agenda of October 6, 2020.

2. **Minutes from September 22, 2020 are Presented for Approval** [2020-406](#)

Sponsors: County Managers Office

Approve the September 22, 2020 Minutes.

COVID UPDATE

PRESENTATION OF AWARD

3. **Presentation Ramsey County Employee Achievement Awards: Carissa Heldt, Human Resources and George Stone, Property Management:** [2020-409](#)

Sponsors: Human Resources

None. For information only.

PRESENTATION

4. **Presentation on the Proposed Special Service Improvement District for Downtown Saint Paul** [2020-295](#)

Sponsors: Property Management

None. For information and discussion only.

ADMINISTRATIVE ITEMS

5. **Personnel Complement Increase in the Social Services Department** [2020-283](#)

Sponsors: Social Services

Approve an increase in the personnel complement of the Social Services Department by 4.0

full-time equivalent (FTE) positions in the Mental Health Professional and/or Mental Health Practitioner classifications: 2.0 FTEs for Adult Mental Health Crisis and 2.0 FTEs for Children's Mental Health Crisis.

6. Single Source Agreement with National Medical Services, Inc. for Toxicology Testing Services [2020-291](#)

Sponsors: Medical Examiner

1. Approve the selection of and the agreement with the National Medical Services, Inc. 200 Welsh Road, Horsham, PA, 19044 to provide postmortem toxicology testing services for the period of October 6, 2020 through March 31, 2022 with the option to renew for an additional two year period, in accordance with the rates established in the agreement.
2. Authorize the Chair and the Chief Clerk to execute the agreement.
3. Authorize the County Manager to execute amendments to the agreement in accordance with the County's procurement policies and procedures, provided the amounts are within the limits of available funding.

7. Increased Compensation for Election Judges for the 2020 Primary and General Election [2020-279](#)

Sponsors: Property Tax and Records Election Services

Approve a temporary \$4.00 per hour increase to the current hourly rate for election judges assigned by the Ramsey County Elections office for the 2020 Primary and General elections, effective September 1, 2020 - December 31, 2020, with the new temporary rates being:

Absentee ballot board judges	\$20.00 per hour
Voting system judges	\$20.00 per hour
Area logistics judges	\$18.00 per hour
Head judges	\$18.00 per hour
Assistant head judges	\$16.00 per hour
Precinct & Student judges	\$14.00 per hour

8. First Amendment to Professional Services Agreement with Hart InterCivic, Inc. for Elections Voting System [2020-282](#)

Sponsors: Property Tax and Records Election Services

1. Approve the amendment to the agreement with Hart InterCivic to renew the agreement for the period from November 10, 2020 through November 9, 2025, and to make the following changes to the agreement:
 - a. Change the agreement from a not to exceed contract to a rate setting contract;
 - b. Specify that professional services or extended warranties requested after November 10, 2020 will be subject to additional fees; and
 - c. Establish a separate limitation of liability applicable to new purchased made after November 10, 2020.
2. Authorize the Chair and Chief Clerk to execute the amendment.
3. Authorize the County Manager to execute change orders and amendments to agreement in accordance with the County's procurement policies and procedures, provided the amounts are within the limits of funding.

9. Tamarack Nature Center Garden House Remodel Project [2020-296](#)

Sponsors: Parks & Recreation

1. Approve the selection of and contract with Construction Results Corporation, 14170 23rd Avenue North, Plymouth, MN 55423 for Tamarack Nature Center Garden House Remodel Project construction services for the period of October 7, 2020 through October 6, 2021, in the amount of \$604,740.
2. Authorize the Chair and the Chief Clerk to execute the contract.
3. Authorize the County Manager to execute amendments to the agreement in accordance with the County's procurement policies and procedures, provided the amounts are within the limits of available funding.

10. Fifth Amendment to the Lease Agreement with the State of Minnesota [2020-269](#)
Explore Minnesota Tourism for Metro Square Building.

Sponsors: Property Management

1. Approve the Fifth Amendment to the Lease Agreement in Metro Square Building, 121 East Seventh Place, Saint Paul, Minnesota, 55101, with the State of Minnesota Explore Minnesota Tourism, 121 East Seventh Place, Saint Paul, Minnesota, 55101, effective October 9, 2020.
2. Authorize the Chair and Chief Clerk to execute the lease amendment.

11. Amended and Restated Lease Agreement with Regions Hospital and [2020-404](#)
Gillette Children's Specialty Healthcare.

Sponsors: Property Management

1. Approve the Amended and Restated Lease Agreement with Regions Hospital, 640 Jackson Street, Saint Paul, MN 55101, and Gillette Children's Specialty Healthcare, 640 Jackson Street, Saint Paul, MN 55101 for the period of January 1, 2020 through December 31, 2040.
2. Authorize the Chair and Chief Clerk to execute the agreement.

12. Public Health Building at 555 Cedar Design-Build Project and Agreement [2020-292](#)
with Kraus-Anderson for Part 1 Design-Build services.

Sponsors: Property Management

1. Accept and approve the Public Health Facility Design-Build Project budget and financing plan for the Public Health Building, 555 Cedar Street, Saint Paul, Minnesota, 55101, in the amount of \$2,168,750.
2. Authorize the County Manager to account for the Public Health Facility Design-Build Project as a project budget in the Property Management budget.
3. Approve the selection of, and agreement with, Kraus-Anderson Construction Company, 501 South Eighth Street, Minneapolis, Minnesota 55404, for Part 1 Design-Build services for the Public Health 555 Cedar Street Auditorium Renovation Project, for the period of October 7, 2020 through December 16, 2020, in the amount of \$14,750.
4. Authorize the Chair and Chief Clerk to execute the Part 1 Design-Build agreement.
5. Authorize the County Manager to execute change orders and amendments to the Agreement provided the amounts are within available funding.

13. Highway Right of Way Access Agreement - Silver Lake Road (CSAH 44) [2020-284](#)

Sponsors: Public Works

1. Approve the termination of the Access Control Agreement to Silver Lake Road, dated October 28, 1974 and recorded July 25, 1975 by the County Recorder's office and the corrected access agreement.
2. Authorize the Chair and Chief Clerk to execute the termination and corrected access agreements.
3. Request that the signed agreements be filed with the County Recorder.

14. Disclaim and Extinguish Interest in Unused Right-of-Way

[2020-286](#)

Sponsors: Public Works

1. Approve the disclamation and extinguishment of the County's interest in the unused county road right-of-way located east of Lexington Avenue and south of County Road C2 in the Northeast Quarter of the Southeast Quarter of Section 3, Township 29, Range 23 and the Northwest Quarter of the Southwest Quarter of Section 2, Township 29, Range 23, all in Ramsey County, Minnesota.
2. Request that a copy of this resolution be filed with the County Auditor, County Recorder and County Registrar.

15. Appointments to the Capital Improvement Program Advisory Committee

[2020-412](#)

Sponsors: Board of Commissioners

Appoint the following individuals to the Capital Improvement Program Advisory Committee for terms beginning with date of appointment:

<u>Appointee</u>	<u>District</u>	<u>Term Expires</u>
Devon Pohlman	1	8/30/22
Barbara Garn (incumbent)	2	8/30/22
Shaun McCalry (incumbent)	3	8/30/22
James Miller (incumbent)	5	8/30/22
Susan Hauwiller (incumbent)	6	8/30/22
Logan Beere (incumbent)	6	8/30/21
Dennis Larson (incumbent)	7	8/30/22

16. Appointments to the Capitol Region Watershed District Board of Managers

[2020-411](#)

Sponsors: Board of Commissioners

Appoint the following three individuals to the Capitol Region Watershed District Board of Managers for terms beginning with date of appointment and ending September 30, 2023:

- Rick Sanders, District 2- Incumbent
- Joe Collins, District 3 - Incumbent
- Howana Sullivan Janzen - District 4

17. Appointment to the Disabled Veterans Rest Camp Board of Managers

[2020-410](#)

Sponsors: Board of Commissioners

Appoint David Sullivan-Nightengale to the Disabled Veterans Rest Camp Board of Managers for a term beginning with date of appointment and ending August 1, 2022.

COUNTY CONNECTIONS

BOARD CHAIR UPDATE

OUTSIDE BOARD AND COMMITTEE REPORTS

ADJOURNMENT

Following County Board Meeting:

1:30 p.m. - County Board Workshop: Economic Competitiveness and Inclusion - Virtual Meeting
(Public access to view this virtual workshop live is available in the County Manager's Office - 250 Courthouse, 15 Kellogg Blvd. W., St. Paul)

Advance Notice:

October 13, 2020 County board meeting – Council Chambers

October 20, 2020 County board meeting – Council Chambers

October 27, 2020 County board meeting – Council Chambers

November 3, 2020 County board meeting – Council Chambers



Board of Commissioners

Request for Board Action

15 West Kellogg Blvd.
Saint Paul, MN 55102
651-266-9200

Item Number: 2020-405

Meeting Date: 10/6/2020

Sponsor: County Manager's Office

Title

Agenda of October 6, 2020 is Presented for Approval.

Recommendation

Approve the agenda of October 6, 2020.



Board of Commissioners

Request for Board Action

15 West Kellogg Blvd.
Saint Paul, MN 55102
651-266-9200

Item Number: 2020-406

Meeting Date: 10/6/2020

Sponsor: County Manager's Office

Title

Minutes from September 22, 2020 are Presented for Approval

Recommendation

Approve the September 22, 2020 Minutes.

Attachments

1. September 22, 2020 Minutes

Board of Commissioners

Minutes

September 22, 2020 - 9 a.m.

Council Chambers - Courthouse Room 300

The Ramsey County Board of Commissioners met in regular session at 9:02 a.m. with the following members present: Carter, MatasCastillo, McGuire, Ortega, Reinhardt, and Chair McDonough. Also present were Ryan O'Connor, County Manager, and John Kelly, First Assistant County Attorney.

ROLL CALL

Present: Carter, Frethem, MatasCastillo, McDonough, McGuire, Ortega, and Reinhardt

PLEDGE OF ALLEGIANCE

1. Agenda of September 22, 2020 is Presented for Approval. [2020-303](#)

Motion by McDonough, seconded by McGuire. Motion passed.

Aye: Carter, Frethem, MatasCastillo, McDonough, McGuire, Ortega, and Reinhardt

2. Minutes from September 15, 2020 are Presented for Approval [2020-304](#)

Motion by McDonough, seconded by McGuire. Motion passed.

Aye: Carter, Frethem, MatasCastillo, McDonough, McGuire, Ortega, and Reinhardt

COVID UPDATE

Presented by County Manager Ryan O'Connor and Kathy Hedin, Public Health Director. Discussion can be found on archived video.

ADMINISTRATIVE ITEM

3. Grant Award from Center for Tech and Civic Life for Elections COVID 19 Response [2020-402](#)

Motion by McDonough, seconded by Ortega. Motion passed.

Aye: Carter, Frethem, MatasCastillo, McDonough, McGuire, Ortega, and Reinhardt

Resolution: [2020-182](#)

POLICY ITEM

4. Reconsidering and Amending the Resolution for 2021 Budget - Certify Maximum Levy for the Proposed Property Tax Notice adopted on September 15, 2020 for the Purpose of Correcting a Typographical Error on Line 30 to Change the Year from 2018 to 2021 [2020-306](#)

Motion by Reinhardt, seconded by MatasCastillo. Motion passed.

Aye: Carter, Frethem, MatasCastillo, McDonough, McGuire, Ortega, and Reinhardt

Resolution: [2020-183](#)

WORKSHOP**5. Workshop: Strategic Team Committee of the Whole**[2020-305](#)

Introduced by County Manager Ryan O'Connor. Presented by Alex Kotze, Chief Financial Office Elizabeth Tolzmann, Director of Policy and Planning. Also part of the discussion were Keen Independent Research representatives: Dave Keen, Principal, Blanca Monter, Senior Consultant, Joseph Board, Consultant and Keith Wiener, Partner - Holland & Knight.

LEGISLATIVE UPDATE

Presented by Commissioner McGuire. Discussion can be found on archived video.

COUNTY CONNECTIONS

Presented by County Manager, Ryan O'Connor. Discussion can be found on archived video.

BOARD CHAIR UPDATE

Discussion can be found on archived video.

OUTSIDE BOARD AND COMMITTEE REPORTS

Discussion can be found on archived video.

ADJOURNMENT

Chair Carter declared the meeting adjourned at 12:12 p.m.

Board of Commissioners

Request for Board Action

Item Number: 2020-409

Meeting Date: 10/6/2020

Sponsor: Human Resources

Title

Presentation Ramsey County Employee Achievement Awards: Carissa Heldt, Human Resources and George Stone, Property Management:

Recommendation

None. For information only.

Background

The Ramsey County Achievement Award Program Selection Committee is a volunteer committee of employees from different departments of the county who research, review and make final recommendations on nominations put forward in any of several categories of employee achievement or excellence.

The Ramsey County Achievement Award Selection Committee has selected employee Carissa Heldt, Senior Business Analyst from Human Resources, to be recognized with an Employee Achievement Award in the categories of *Excellent Job Performance* and *Performance Beyond the Call of Duty*.

The Ramsey County Achievement Award Selection Committee has also selected George Stone, Maintenance Mechanic 2 from Property Management, to be recognized with an Employee Achievement Award in the category of *Excellent Job Performance*.

Attachments

1. Memorandum for Achievement Award Notice to Carissa Heldt
2. Memorandum for Achievement Award Notice to George Stone

MEMORANDUM

TO: Commissioner Toni Carter, Chair
Commissioner Nicole Frethem
Commissioner Trista MatasCastillo
Commissioner Jim McDonough
Commissioner MaryJo McGuire
Commissioner Rafael Ortega
Commissioner Victoria Reinhardt

FROM: Gail J. Blackstone, Director of Human Resources

DATE: September 22, 2020

SUBJECT: Achievement Award Recipient

The Ramsey County Employee Achievement Award Selection Committee has selected the following employee to receive an Achievement Award. This is to advise you that in accordance with County Board Resolutions, **Carissa Heldt**, ERP Senior Business Analyst, Human Resources Department, will receive an Employee Achievement Award. Presentation of the award will be made at the October 6, 2020 meeting of the County Board.

Nomination Summary

Carissa Heldt is a senior business analyst with the Human Resources department. She was nominated for a Ramsey County Employee Achievement Award by her supervisor, Tammy LaForte.

The reasons Carissa was nominated include:

- Her dedication to process improvement and automation.
- Her superior problem-solving skills.
- Her superb reputation as a team player and go-to resource for her colleagues both internally and externally.

After joining the county in 2015 as a business analyst, Carissa quickly became a senior business analyst in 2017.

In her time with the county, she has worked tirelessly to make process improvements and promote automation. Carissa's efforts have helped create cost savings through increased efficiency by eliminating the need for manual data entry.

121 7th Place East, Suite 2100
Saint Paul, MN 55101
Phone: (651) 266-2700
Fax: (651) 266-2727
TDD: Dial 711
www.co.ramsey.mn.us

As Ramsey County focuses on sustainability, Carissa has worked with vendors on electronic file transfers to eliminate paper invoices.

Carissa has been described as an “employee whisperer” by her colleagues thanks to her ability to listen, make others feel heard and address their issues.

She is known to share her knowledge of programs and software with her co-workers and is viewed as a thought leader by her colleagues in the industry. Carissa will go out of her way to consult with subject matters experts and find the correct answer to a question.

Carissa does all of this and more with a smile and a positive attitude.

Committee Recommendation

In summary, the Achievement Award Selection Committee recommends that Carissa Heldt be awarded a Ramsey County Employee Achievement Award in the categories of “Excellent Job Performance” and “Performance Beyond the Call of Duty.”

GJB/mh

CC: Ryan O'Connor

MEMORANDUM

TO: Commissioner Toni Carter, Chair
Commissioner Nicole Frethem
Commissioner Trista MatasCastillo
Commissioner Jim McDonough
Commissioner MaryJo McGuire
Commissioner Rafael Ortega
Commissioner Victoria Reinhardt

FROM: Gail J. Blackstone, Director of Human Resources

DATE: September 22, 2020

SUBJECT: Achievement Award Recipient

The Ramsey County Employee Achievement Award Selection Committee has selected the following employee to receive an Achievement Award. This is to advise you that in accordance with County Board Resolutions, **George Stone**, Maintenance Mechanic 2, Property Management, will receive an Employee Achievement Award. Presentation of the award will be made at the October 6, 2020 meeting of the County Board.

NOMINATION SUMMARY

George Stone - a Maintenance Mechanic 2 with Property Management - was nominated for a Ramsey County Employee Achievement Award by Deb Glaser. His nomination has been researched and subsequently recommended for approval by the achievement award committee in the category of "Excellent Job Performance."

George earned the praise of managers Dan Hicks and Brandon Troland almost immediately after starting his current position.

During his interview, Stone was a standout. When asked how he would solve a mechanical problem, Stone was the only candidate who asked detailed follow-up questions about the problem so he could provide the best possible solution.

Stone consistently displays his knowledge of his job and quickly completes assigned tasks. Whether it's fixing a leaky faucet or daily checks of the HVAC system, he is persistent, tackles challenges with ease and takes the initiative to do additional work without his supervisor asking him to.

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He also provides excellent customer service, often following up on projects to make sure requests are completed to satisfaction. When an employee reported discomfort caused by a vent above her desk, Stone relocated the desk within her workspace and followed up several times to ensure she was satisfied.

Stone's colleagues say he is a joy to work with, extremely polite and genuinely nice.

Committee Recommendation

In summary, the Achievement Award Selection Committee recommends that George Stone be awarded a Ramsey County Employee Achievement Award in the category of "Excellent Job Performance."

GJB/mh

CC: Ryan O'Connor

Board of Commissioners

Request for Board Action

Item Number: 2020-295

Meeting Date: 10/6/2020

Sponsor: Property Management

Title

Presentation on the Proposed Special Service Improvement District for Downtown Saint Paul

Recommendation

None. For information and discussion only.

Background

The Saint Paul Downtown Alliance represents downtown businesses, nonprofits, government entities, residents, and entrepreneurs to build a strong and vibrant downtown and create a positive downtown experience. Joe Spencer, President, will present to Ramsey County on the proposed Special Service Improvement District for downtown Saint Paul in support of the Saint Paul Downtown Alliance's mission to create and maintain a vibrant, economically successful, safe and attractive downtown that benefits the entire city and region by: recruiting new employers; attracting new investments; and creating a great, positive downtown experience.

The Saint Paul Downtown Alliance has strong support for establishing a Special Service Improvement District. A petition has been presented to the Saint Paul City Council in accordance with the requirements of Minnesota Statutes section 428A.08 to establish the district for a five-year period, 2021-2025.

The presentation will include the proposed district boundaries and include an overview of the benefits, role, responsibilities, budget, and funding for the Special Service Improvement District.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☐ Opportunity ☒ Accountability

Racial Equity Impact

The racial equity impact is unknown. It is expected that with the implementation of the planned Fusion Center, a centralized monitoring and dispatch center, and expanded use of the ambassador model there will be fewer incidents requiring law enforcement to respond. Black, indigenous, and people of color are disproportionately arrested and imprisoned compared to that of the white population. Reducing the need for law enforcement response to minor downtown incidents will have a positive impact in reducing these numbers.

Community Participation Level and Impact

There was no community participation related to this action. The community is informed of the action through the County Board documentation. More information on the Saint Paul Downtown Alliance is available on their website: <https://stpdowntownalliance.org/>. Information on the City Council public hearing is available at <https://stpaul.legistar.com/Calendar.aspx>.

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

The commercial property owners in the proposed district will have a service charge imposed beginning in 2021 based on their building square footage and the front footage of the property. The Saint Paul Downtown Alliance will be seeking voluntary participation by Ramsey County and the City of Saint Paul as government entities are otherwise exempt from the service charge.

County Manager Comments

The Special Service Improvement District will work with businesses, property owners, and government entities to improve the vibrancy of downtown by creating a better environment for all.

Last Previous Action

There is no previous action related to this item.

Attachments

1.Presentation



A Downtown Improvement District for Saint Paul

Information and Historical Context

January 2017 – October 2020

Saint Paul Downtown Alliance presentation to Ramsey County Board
October 6, 2020



WHAT IS A DID?

A downtown improvement district (or DID, also known as a business improvement district/BID or a special service district by MN state law) is a **private organization that is operated to promote business district revitalization and management**. Funding comes primarily from charges determined by the organization's Board of Directors that are assessed by the City and Ramsey County on a fiscal-agent basis against eligible commercial properties within defined boundaries through the special assessment line of property tax invoices.

Voluntary contributions can also be accepted by the organization from properties exempt from assessment, including government, certain non-profit, and residential parcels.

DIDs throughout the country have been created because the private sector recognizes that the public sector cannot deliver the level of service on an affordable basis that private property and business owners demand.

DOWNTOWN VITALITY VISION:

Year+ engagement process

Downtown Vitality Vision | Saint Paul, Minnesota | April 2018



© 2018 URBAN DESIGN ASSOCIATES

THE
DOWNTOWN
VITALITY
VISION

DOWNTOWN VITALITY VISION:

Recommendations



Planning and maintaining infrastructure improvements.



Streetscapes, including lighting and street furniture.

CITIES RESPONSIBLE FOR?

Maintaining basic infrastructure like streets, street lighting, neighborhood parks, and infrastructure, etc.

Development



SSDs often employ ambassadors to greet visitors and keep streets clean and safe.



SSDs take responsibility for activating and greening downtown spaces.

WHAT ARE SPECIAL SERVICES DISTRICTS RESPONSIBLE FOR?

- Ensuring a higher level of service in the downtown area like sidewalk cleaning, special capital improvement projects, beautification, safety and security efforts, and programming, events, and space activation
- Owning the brand of downtown by marketing and promoting downtowns, supporting in business recruitment and retention, and tracking and publicizing progress



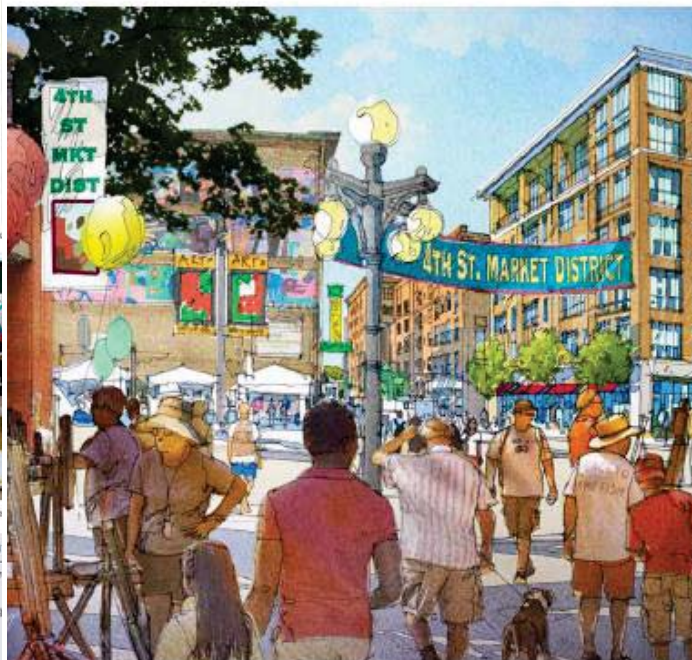
Farmers markets, outdoor games, and live music.



Vibrant downtowns require public, private together to program space.

WHO PROGRAMS AND ACTIVITIES?

- Conservancy or Special Non-Profit
- Public Sector
- Special Services Districts (SSDs)
- Private Sector



SPECIAL SERVICES DISTRICT (SSD) WORKING GROUP

Ensure downtown is a vibrant, welcoming place for businesses, residents, and visitors by creating a public/private partnership to address cleanliness, safety, programming, branding, and beautification.



SAINT PAUL DOWNTOWN ALLIANCE LAUNCH

ONE STRONG, VIBRANT DOWNTOWN SAINT PAUL

[Learn More](#)

The Downtown Alliance is the outcome of a year-long community-based process spearheaded by the Saint Paul Riverfront Corporation that brought together government agencies, businesses, residents and other stakeholders to create a vision for the future of downtown Saint Paul.



- Press Release February 28, 2018

SAINT PAUL DOWNTOWN ALLIANCE LAUNCH

NEWS

Mayor Carter, Securian CEO launch Downtown Alliance



By [FREDERICK MELO](#) | fmelo@pioneerpress.com | Pioneer Press

PUBLISHED: February 28, 2018 at 2:03 pm | UPDATED: December 12, 2018 at 10:24 am

Downtown St. Paul has a new advocate with strong ties to the city's business community.

St. Paul Mayor Melvin Carter and Chris Hilger, CEO of the Securian Financial Group, jointly announced the creation Wednesday of the [St. Paul Downtown Alliance](#). The nonprofit board will be dedicated to advocating for the interests of downtown businesses, residents, nonprofits and government agencies.

Carter and Hilger will co-chair the 16-member board, largely composed of the leadership of the St. Paul Area Chamber of Commerce, the Minnesota Wild, HealthPartners and other businesses or business advocates. The nonprofit will seek an executive director.

The board will convene quarterly, though committees will be appointed on an annual basis.

One of its first orders of business will be to pursue a feasibility study on creating a special downtown taxing district, similar to one in Minneapolis. Funds could be used a variety of ways, from staffing special projects to rehabbing older buildings.



St. Paul Mayor Melvin Carter III, left, and Chris Hilger, CEO of the Securian Financial Group

A tax on downtown properties — similar to one in Minneapolis managed by that city's Downtown Council — could be used in a variety of ways, the Pioneer Press' Frederick Melo reported, from staffing special projects to rehabbing older buildings.

“There’s got to be support first and foremost in the community for it,” Hilger said of a possible special downtown district.

March 8, 2018 Pioneer Press

Editorial about SPDA Launch



SPDA RESEARCH

Special Service Districts / Downtown Improvement Districts Nationally



Of the 65 largest cities in the county, Saint Paul is the only without an improvement district.

SPDA Committee Research, October 2018



NATIONAL RESULTS

- In Philadelphia crime decreased by 40%
- In Red Bank, New Jersey saw occupancy increase from 65% to 97%
- In El Cajon, California property values increased 20%



NATIONAL RESULTS

TECHNICAL REPORT



Neighborhood Effects on Crime and Youth Violence

The Role of Business Improvement Districts in Los Angeles

*John MacDonald • Ricky N. Bluthenthal • Daniela Golinelli • Aaron Kofner
Robert J. Stokes • Amber Sehgal • Terry Fain • Leo Beletsky*

Table 5.4
Overall Estimated Reduction in Reported Crime from BIDs (%)

Crime-Report Data	Posterior Mean ([1- μ_K] \times 100)	95% Posterior Probability Interval	Probability of a BID Effect ($P[\mu_K < 1]$)
Robbery	12	(-2, 24)	0.96
Robbery + homicide	12	(-2, 24)	0.96
Violent crime	8	(-5, 21)	0.91
Property crime	6	(-5, 17)	0.85
Total crime	6	(-6, 17)	0.86

Findings :
12%
Reduction
in Robberies
and other
Violent Crime





<https://youtu.be/mEiidlg5Mj4>

SPDA RESEARCH



Downtown Improvement District

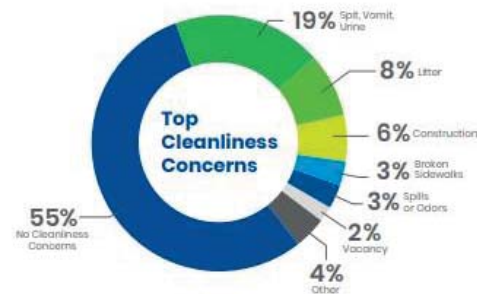
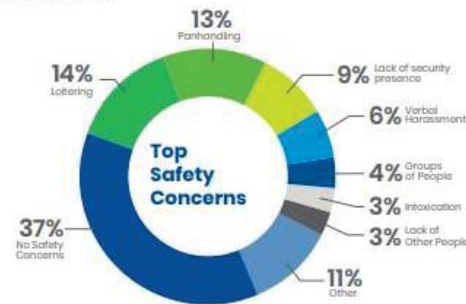


DID offered 94 safety workshops in 2018.



2018 Perception Survey

2018 saw a **positive increase** in perceptions of cleanliness, safety and the public realm downtown-wide



DID Service Levels



The District is divided into two service levels: Premium and Standard. These areas were determined based upon the level of pedestrian activity and the resulting need for intensity of service to maintain a consistent standard. These service levels can be modified as need to reflect any land use changes that result in changes to pedestrian activity patterns and intensity.

"I am from New York and could not believe how clean downtown Mpls was. Great job to DID and everyone involved."

- Downtown Visitor

MINNEAPOLIS DOWNTOWN ALLIANCE

FUSION CENTER:

Downtown Minneapolis

The Mpls DID's Safety Communications Center (SCC / Fusion Center), located within the Minneapolis Police Department's 1st Precinct, serves as a **downtown safety information hub**.

Supporting and Dispatching DID Ambassador Services

Ambassadors create a friendly, welcoming environment for everyone. They can provide maps, guides, directions, and can also provide safety escorts downtown and help with downtown cleaning.

Supporting Downtown Street Outreach Services

The DID SCC coordinates with various outreach services. The DID SCC uses two-way radios and an incident management system to help dispatch appropriate outreach services if it is available.

Communicating and Collaborating with Private Security Teams Downtown

The DID SCC serves as the central point of the RadioLINK system, connecting officers directly with private security teams and outreach teams via a common radio channel. It also expands private security's reach by connecting organizations to one another.

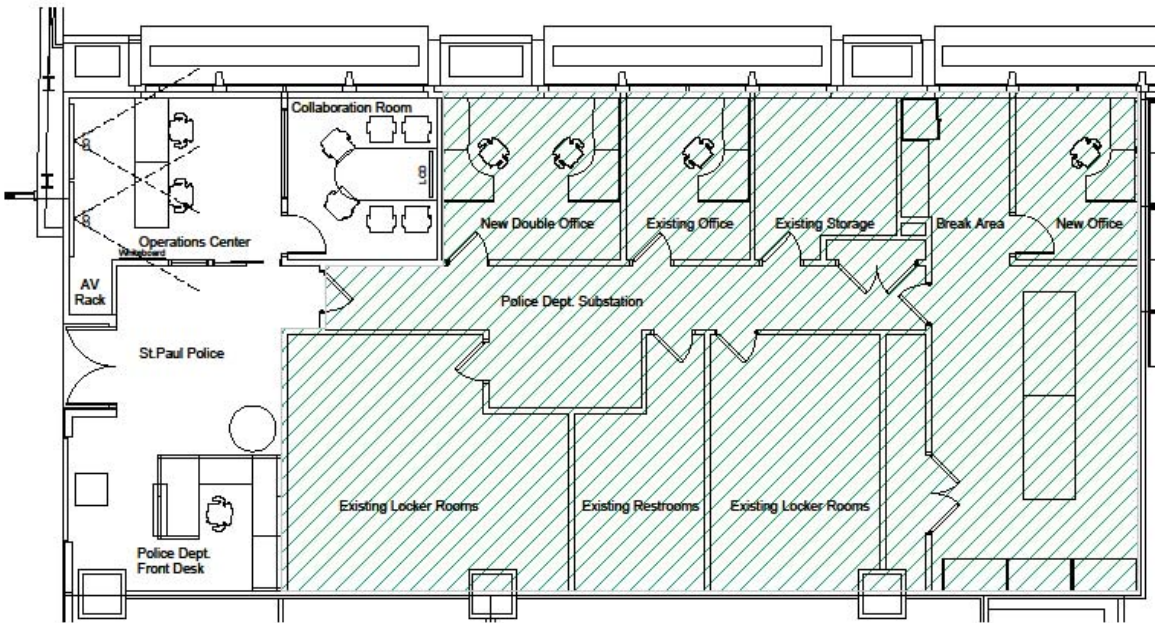
Collaborations with 1st Precinct Police Department

The SCC has a manager who coordinates with the 1st Precinct Police Department daily. A weekly safety meeting is held by the 1st Precinct Inspector to discuss Part 1 crime with the DID SCC and others safety partners in efforts of a coordinated response and plan of action for improvements.



FUSION CENTER:

Downtown Saint Paul vision



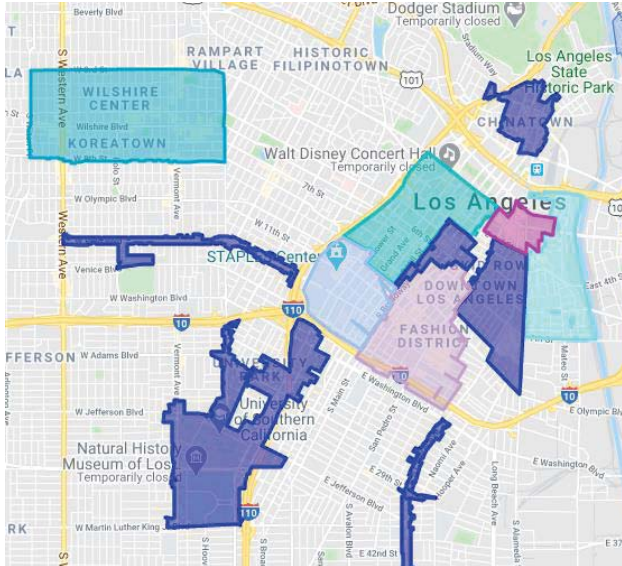
Saint Paul Police Department Downtown Beat Office
Securian 401 Building



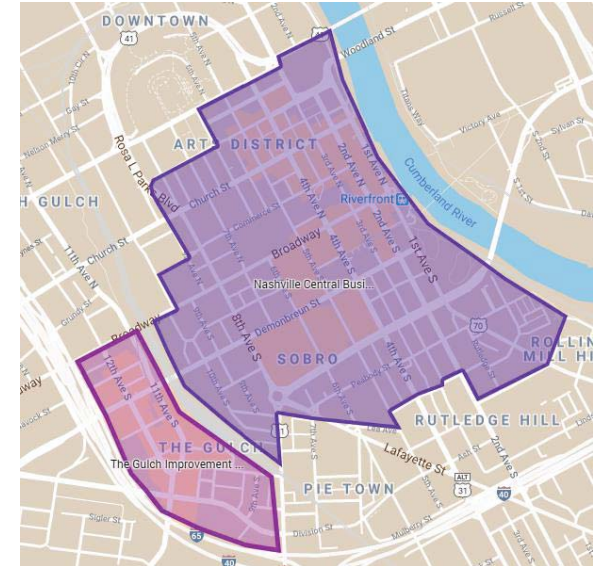
EXPLORING DISTRICT BOUNDARIES



Minneapolis DID was founded in 2007 and covers 120+ blocks with two service levels, standard and premium.



Southern California has more than 100 unique improvement districts each with their own governance structure.

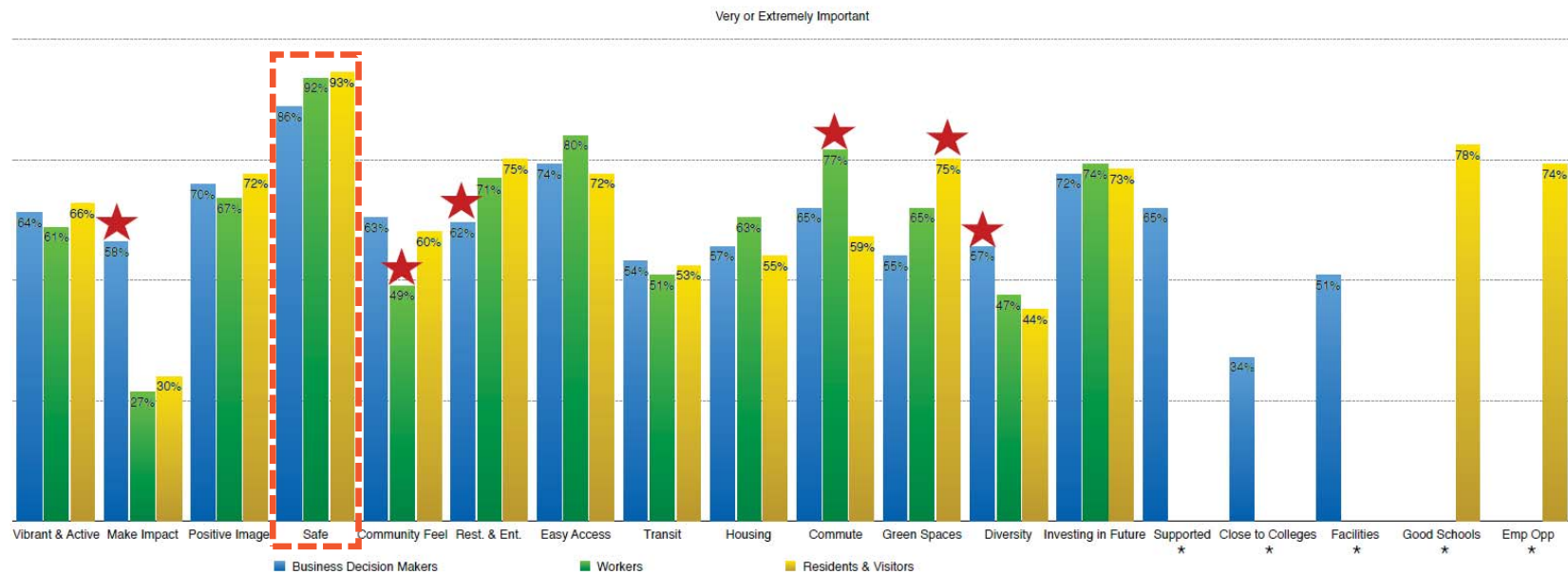


Nashville Central Business Improvement District was founded in 1999 and expanded in 2007. Also in 2007 the Gulch Improvement District was founded just south of downtown and contracts with CBDID for staffing and ambassador services.¹⁵

SPDA RESEARCH

SPDA Branding Research, January 2019

Many of the attributes are seen as very or extremely important

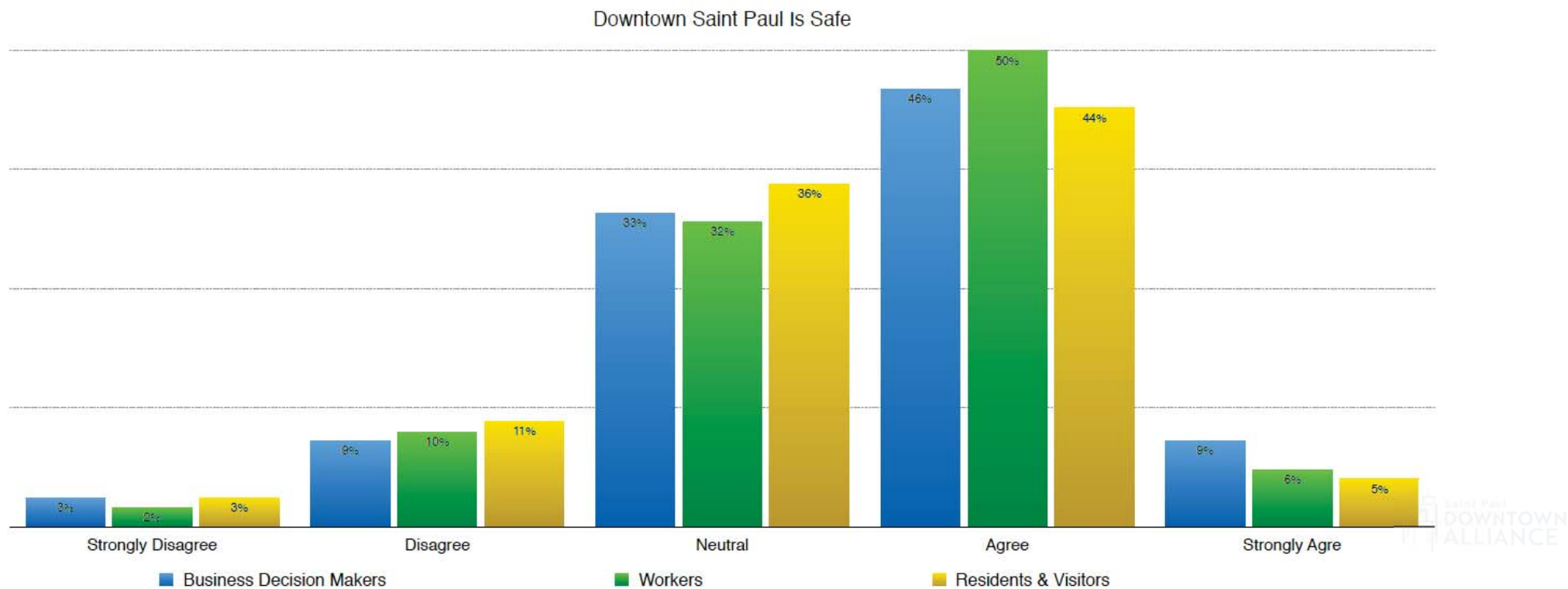


How important are the following location attributes?

* Only asked of some audiences

SPDA RESEARCH

SPDA Branding Research, January 2019



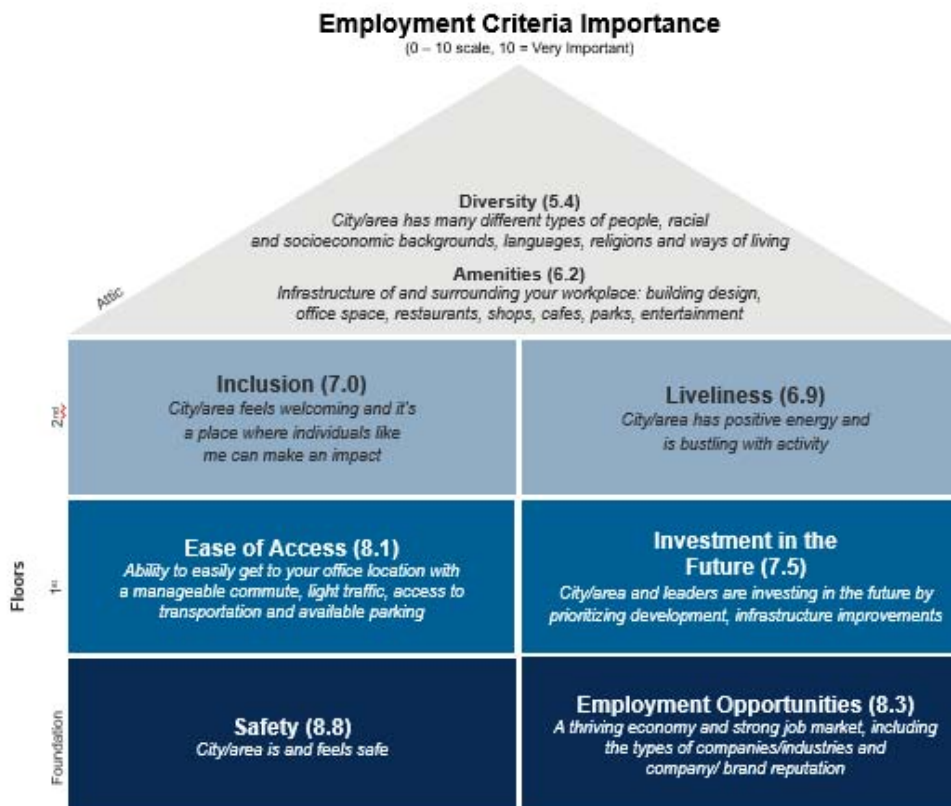
SPDA RESEARCH

SPDA Branding Research, March 2019

SMS RESEARCH ADVISORS | Consumers

Criteria Importance

- Safety and employment opportunities are foundational criteria for job seekers
 - Neither criteria drives additional value, but being unsafe and a lack of hiring opportunities acts as a barrier to consideration
- Ease of access and investment in the future are the greatest opportunity to drive differentiation
 - Both criteria reinforce the viability and security of the employment opportunities long-term, including potential growth
- Inclusion, liveliness, amenities and diversity can add value, but only once ease of access and investment in the future are met
 - These criteria are largely situational – based on unique preferences
- Investment in the future, diversity, inclusion, and liveliness are significantly more important to people of color than their white counterparts

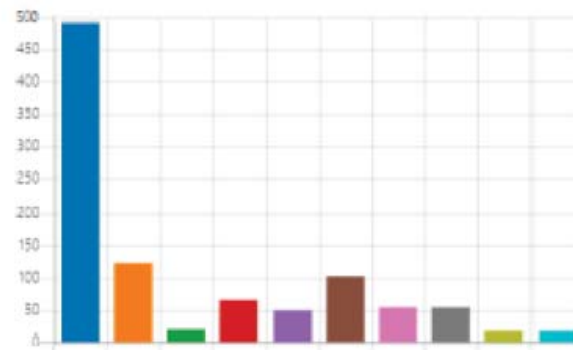


SPDA RESEARCH

SPDA & BOMA Research, April 2019

Which of the following items is most important to you?

Public Safety Services	492
Mental Health Services	122
Traffic Enforcement	20
Traffic Congestion	66
Transit System	50
Pedestrian Friendly	103
Street & Sidewalk Maintenance	55
Cleanliness & Landscaping	54
Building Maintenance	18
Wayfinding/Signage	18





STREETS OF
SUMMER

SAFE AND CLEAN PILOT PROGRAM

June – August 2019



ABOUT STREETS OF SUMMER

Streets of Summer was a pilot Safe and Clean program modeled on proven strategies from across the country for improving safety outcomes and downtown user experience. **The pilot covered about four square blocks and occurred in two priority zones – Central Station and the area around Rice Park, Landmark Plaza and Hamm Plaza** – and helped us explore a potential business improvement district for Saint Paul’s city center.

In addition to hiring the full-time Street Team staff, Streets of Summer included place making activations like art installations, music and social engagements, providing a multiplier effect for all the efforts and investments aimed at building a vibrant downtown.

Streets of Summer received funding from the Knight Foundation, the City of Saint Paul Cultural Sales Tax Revitalization Program, John and Ruth Huss, and Dr. Lowell Hellervik.

Safety Statistics



1580

Hospitality
Assists



188

Program
Info



146

Business
Contacts



255

Escort
Assists

Cleaning Statistics



544

Graffiti
Removed



382

Garbage
Cans
cleaned



121

Block
faces of
Weeds
Removed



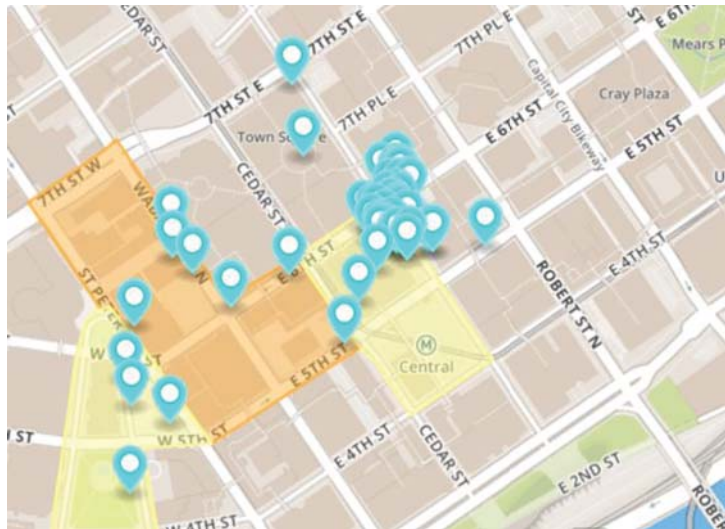
5300 +

Gum spots
removed

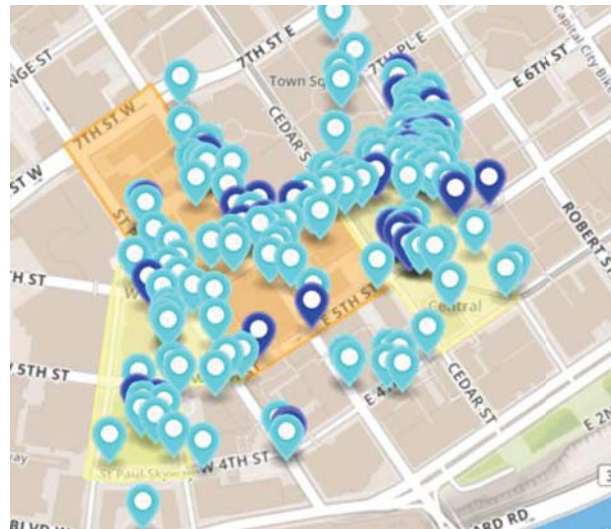


84

Bags of
trash
collected



Escorts provided, August



Hospitality assists and program info, August



Fixtures painted, July



Weed abatement, June

GEOTAGGED DATA MAPPING





1580
HOSPITALITY
ASSISTS



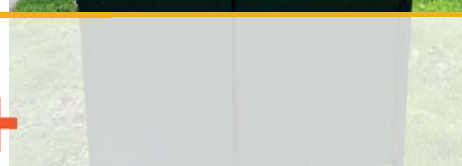
“The Street Team is incredibly impactful – it's a huge deal to see friendly faces all around downtown!”

- survey response

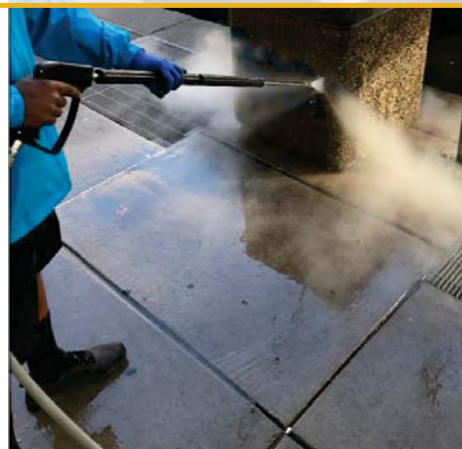
*Excerpt from August 2019
Block by Block update report*

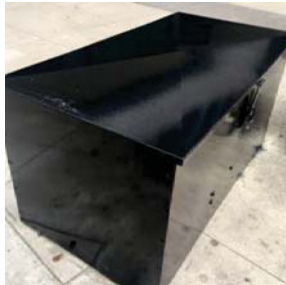


The Street Team are always willing to help! While leaving their shift, this gentleman was shivered and cold from the afternoon's rain. Llew and DeMarcus gave the man one of their own shirts, got him rain protection and escorted him to a shelter for the night. The crew love helping people!

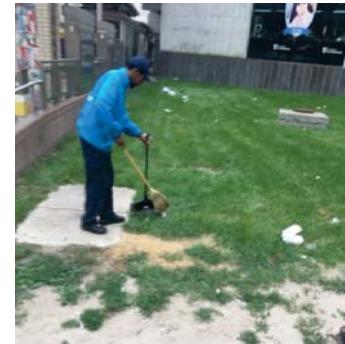
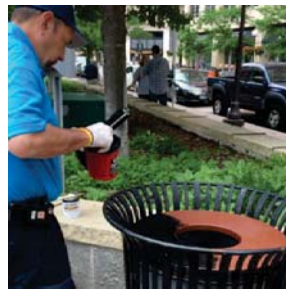


544
GRAFFITI TAGS REMOVED





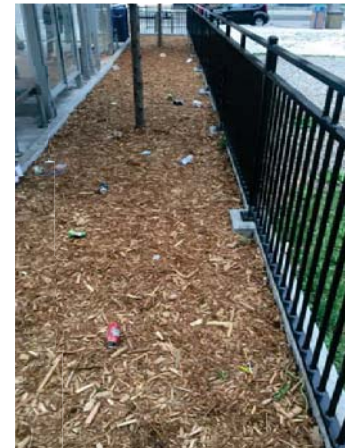
UTILITIES REPAINTED



“Streets are cleaner.
Uniformed staff is very
friendly and all smiles.”

- survey response

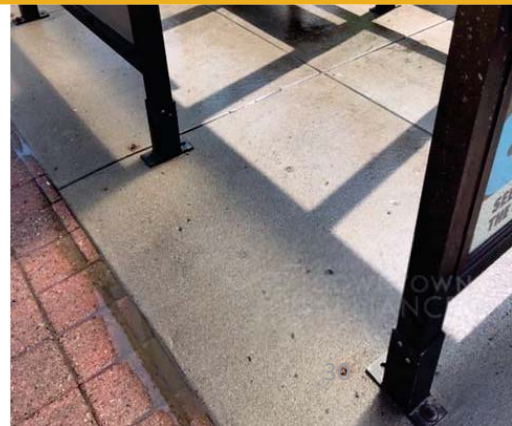
84
BAGS OF
TRASH
REMOVED





5300+

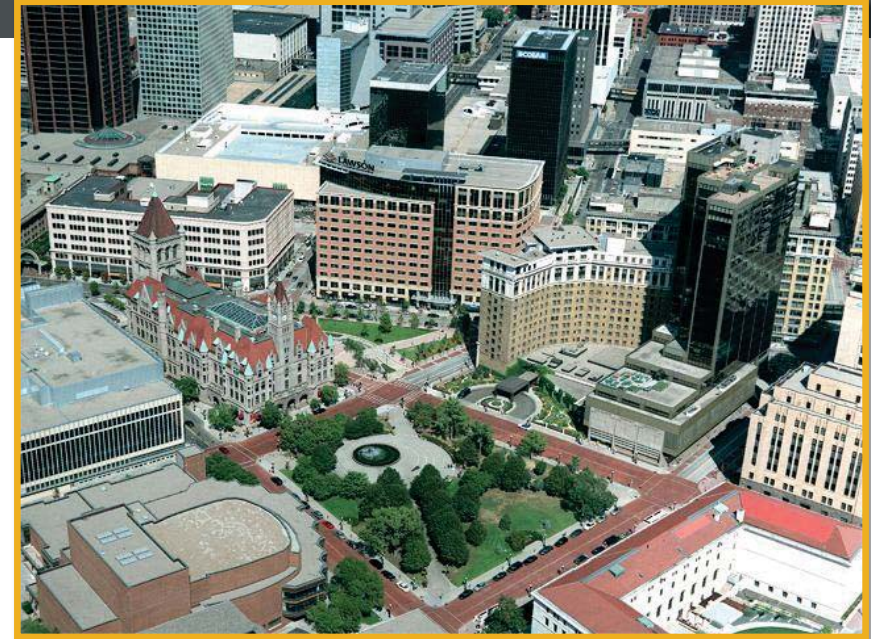
GUM SPOTS REMOVED



SPDA RECOMMENDATIONS TO BOD

The Alliance moves forward by **convening a working group with property owners from the area with the strongest support** and meets with them over the next four to six months, with a **goal of finding a consensus** about the details of a program they would like to implement.

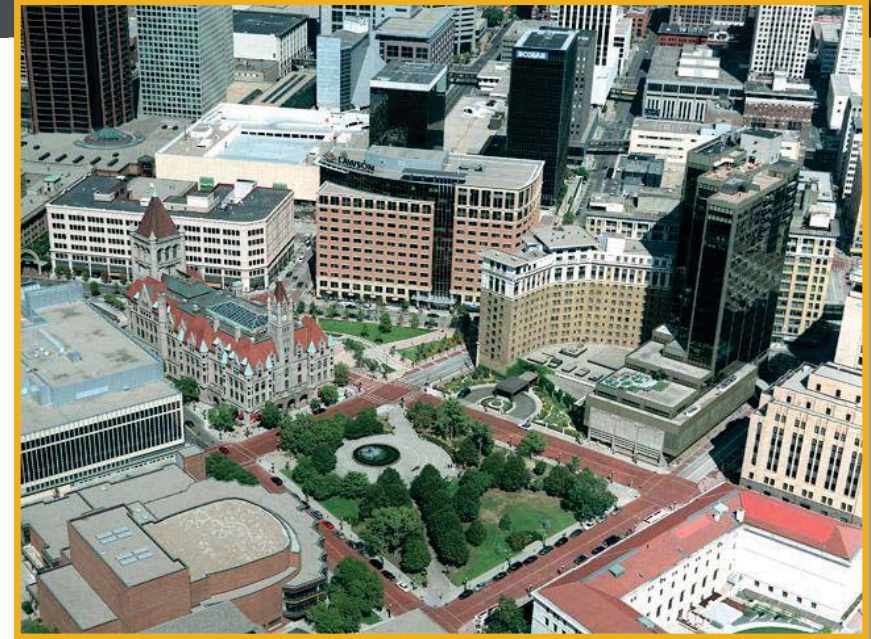
If consensus is reached, engage nearby property owners and adjacent blocks with the specific details and gauge potential support to enlarge or proceed with the original property owners.



SPDA RECOMMENDATIONS TO BOD

Further, the Alliance will **engage a consultant team** with expertise with improvement districts to help us through this process, for the implementation group to determine whether any district should move forward.

If it is to move forward, to determine specific services, scope, a fee structure and costs.



STEERING COMMITTEE

Representatives from commercial properties who had previously expressed interest or support in creating a Saint Paul Downtown Improvement District (SPDID) began meeting in October 2019 to explore ideal programming and budgets.

- *Wells Fargo Place*
- *Infor Commons*
- *Ecolab*
- *Treasure Island Center*
- *InterContinental & Double Tree Hotels*
- *The 428 & Golden Rule*
- *Securian Financial*
- *Travelers*
- *St. Paul Hotel*
- *Century Link*
- *Hamm Building*
- *Victory Ramp*

SPDID BOUNDARIES



PROGRAM CONSENSUS

Based on best practices and lessons learned from improvement districts around the country programming should focus on improving safety and security perceptions and outcomes and creating a **safe and clean downtown**.

SAFE PROGRAM

- Joint Safety Communication Center / Fusion Center
 - Collaborative space for public safety resource deployment
- Highly visible street ambassador hospitality team
 - Eyes and ears, force multiplier, relationship building on the ground

CLEAN PROGRAM

- Highly visible street ambassador clean team
 - Graffiti removal, trash and litter removal, sidewalk sweeping etc

OTHER PROGRAMS

- Public space activation, stakeholder communications, placemaking

PROGRAM REQUIREMENTS

Downtown Improvement Districts are designed by business to function like a business. The Steering Committee has the following expectations to ensure its success :

PUBLIC SECTOR PARTICIPATION

- The City and County both own significant amounts of property in downtown, they will be expected to contribute their fair share through a voluntary contribution.

SOLE SOURCE PROCUREMENT

- Using the Minneapolis DID as a model, the district will have sole source provider exemptions included in ordinance language that allow the district to expedite vendor relations and contracts.

SERVICE COMMITMENTS

- Public realm maintenance or improvements performed by DID staff will be **supplementary** to existing City services and not replace them. Downtown will receive service levels at consistent levels to the rest of the city.

COVID-19

In early March 2020, the first petitions were returned in favor of implementing a DID in 2021.

As the financial uncertainty around COVID-19 grew the steering committee reconvened in April to evaluate next steps for downtown Saint Paul.

Steering committee expressed their desire to move forward but with two-year phased in approach. The 2021 budget has been significantly reduced and there is clear path forward toward ramp up to full program implementation in 2022.

TIMELINE

ORIGINAL TIMELINE	19 Q3	19 Q4	20 Q1	20 Q2	20 Q3	20 Q4	21 Q1	21 Q2
Streets of Summer pilot	■			■	■			
Board Decision		■						
Outreach/Engagement		■	■					
Petitioning			■					
Ordinance				■	■			
Operating Plan and Budget					■	■		
Bid Solicitation						■	■	
Fee Collection							■	■
Program Launch								■

REVISED COVID-19 TIMELINE	19 Q3	19 Q4	20 Q1	20 Q2	20 Q3	20 Q4	21 Q1	21 Q2
Streets of Summer pilot	■							
Board Decision		■						
Outreach/Engagement		■	■	■				
Petitioning				■				
Ordinance + Operating Plan and Budget					■	■		
Bid Solicitation						■	■	
Fee Collection							■	■
Program Launch								■

PHASED PROGRAM & BUDGET

OPERATING PLAN SUMMARY

The name of the proposed Property-based Special Service District is the **Saint Paul Special Service District (the "District")**. The District is being established pursuant to Minnesota Statutes CHAPTER 428A, SPECIAL SERVICE DISTRICTS, herein after referred to as State Law. Developed by the Saint Paul Steering Committee, the Saint Paul Special Service District Management Plan is proposed to improve and convey special benefits to assessed parcels located within the Saint Paul Special Service District area. The District will provide activities, including Clean, Safe, and Beautiful, Communication/Public Space Activation, and Administration/Advocacy/Office. Each of the programs is designed to meet the goals of the District: to improve the safety of each individual assessed parcel within the District, to increase building occupancy and lease rates, to encourage new business development and attract ancillary businesses and services for assessed parcels within the District.

Boundary: See Page 8.

The budget for full program implementation is \$1,413,689 and is the planned budget for year two, 2022.

The total District budget for the 2021 year of operation, which has been reduced to address the COVID-19 pandemic financial issues, is approximately \$610,716.

TOTAL BUDGET

	Year 1 2021	Year 2 2022
Non-exempt property assessments	\$ 455,036.00	\$ 840,297.00
City voluntary assessment contribution	\$ 83,460.56	\$ 282,792.00
County voluntary assessment contribution	\$ 72,219.54	\$ 1,123,089.00
Total	\$ 610,716.10	\$ 1,246,178.00

Urban Place Consulting Group, Inc. 5.18.20

Improvements, Activities, Services

	Year 1 2021	Year 2 2022
SAFE & CLEAN		
Percent of Total Budget	54.87%	78.34%
Non-exempt property assessments	\$ 249,690.27	\$ 840,297.00
City + County voluntary assessment contribution	\$ 85,425.73	\$ 282,792.00
Total	\$ 335,116.00	\$ 1,123,089.00

Enhanced Safe Programs

A Saint Paul Special Service District Safe Team of ambassadors to address crime prevention for parcels in the District will consist of some of the following:

- Joint public safety communications center (Fusion Center)
- Bicycle Patrol (limited year 1)
- Foot Patrol (limited year 1)

Enhanced Clean and Upkeep Programs

A Saint Paul Special Service District Clean Team of ambassadors will consist of some of the following:

- Sidewalk Sweeping (limited year 1)
- Sidewalk Pressure Washing (limited year 1)
- Graffiti & Handbill Removal (limited year 1)
- Trash Removal (limited year 1)
- Landscape programs (limited year 1)

	Year 1 2021	Year 2 2022
COMMUNICATION + PUBLIC SPACE ACTIVATION		
Percent of Total Budget	18.83%	10.46%
Non-exempt property assessments	\$ 85,684.90	\$ 112,230.00
City + County voluntary assessment contribution	\$ 29,315.10	\$ 37,770.00
Total	\$ 115,000.00	\$ 150,000.00

Communication/Public Space Activation programs will consist of some of the following:

- Stakeholder Communications
- Website
- Branding and Marketing (limited year 1)
- Public Space Activation (limited year 1)
- Placemaking Projects (limited year 1)

Urban Place Consulting Group, Inc. 5.18.20

ADMINISTRATION + ADVOCACY/OFFICE

	Year 1 2021	Year 2 2022
Percent of Total Budget	26.30%	11.20%
Non-exempt property assessments	\$ 119,660.83	\$ 120,161.00
City + County voluntary assessment contribution	\$ 40,939.57	\$ 40,439.00
Total	\$ 160,600.40	\$ 160,600.00

Administration staff expenses are allocated according to generally accepted accounting job costing procedures and are allocated to the specific areas in which staff works. The improvements and activities are managed by a professional staff that requires centralized administrative support. Management staff oversees the District's services which are delivered seven days a week. A well-managed District provides necessary Special Service District program oversight and guidance that produces higher quality and more efficient programs.

Consulting Group, Inc. 5.18.20

SAINT PAUL
DOWNTOWN
ALLIANCE

RATES & FEE STRUCTURE

Two property assessment variables are used in the calculation :

Building square footage = 70% total assessment

Linear front footage = 30% total assessment

Total Program Budget = \$610,716.00

Total Universe of building square footage = 10,710,206

↳ **2.99 ¢ per square foot**

Total Universe of linear front footage = 22,964

↳ **\$6.11 per linear foot**

Ramsey County Contribution

Year One : \$610,716.10

Year Two : \$167,175.00 (*projected*)

SUPPORT THRESHOLDS

State Threshold Marker	Goal
25% Petition in Favor	65% Support (more is even better)
Silent/No Position	
35+% Actively Object or Oppose	



Board of Commissioners

Request for Board Action

Item Number: 2020-283

Meeting Date: 10/6/2020

Sponsor: Social Services

Title

Personnel Complement Increase in the Social Services Department

Recommendation

Approve an increase in the personnel complement of the Social Services Department by 4.0 full-time equivalent (FTE) positions in the Mental Health Professional and/or Mental Health Practitioner classifications: 2.0 FTEs for Adult Mental Health Crisis and 2.0 FTEs for Children's Mental Health Crisis.

Background

Minnesota Statute requires county boards to provide enough emergency services to meet the needs of adults, children, and children's families who are experiencing an emotional crisis, emotional disturbance, or mental illness. Emergency services must provide an immediate response 24-hours-a-day, seven-days-a-week (Minnesota Statutes section 245.484 7 subdivision 1 and section 245.462). A team of 16 mental health professionals, 11 mental health practitioners, and two peer support specialists are providing Mental Health Crisis Services in Ramsey County. Because of increasing need for crisis services, four additional staff are required to provide effective and timely responses; two for Children's Crisis and two for Adult Crisis.

Extensive community outreach has increased awareness of Children's Mental Health Crisis Services leading to more demand for services from residents. During the 4th quarter of 2019 (October - December), phone calls were up 189% compared to the year before. Face-to-face assessments and outreach visits were up 144% for the same time period. Increasing staffing levels for Children's Mental Health Crisis Services is critical for the stability of children and families in Ramsey County.

Adult Mental Health Crisis needs additional staff because of a change in the way the County is providing coverage during the overnight shift, increasing demand due to recent events that have created anxiety and stress, and increased collaboration with the Emergency Communications Center.

On July 1, 2020, Ramsey County terminated its agreement with Dakota County Crisis Response to answer adult crisis phone calls during the midnight to eight a.m. shift. At times, long-term clients with severe emotional disturbances need phone contact throughout the day or night to manage their symptoms. Calling the crisis line to manage symptoms is part to their treatment plans. Generally, they do not need face-to-face visits from Crisis staff. County staff heard from some of these long-term clients that Dakota County staff would not accept frequent calls and referred these clients back to the police. Data from Dakota County for the seven weeks prior to the contract ending shows their staff answered an average of 31 calls per week during the night. Since assuming coverage for the overnight shift, Ramsey County staff have averaged 67 calls per week over nine weeks. By providing coverage for the overnight shift, Adult Mental Health Crisis will be able to help some clients maintain stability through ongoing phone contact and avoid more restrictive care.

Stress related to COVID-19, the murder of George Floyd, and community unrest have fueled increased need for crisis services among adults. COVID-19 led community mental health providers to rapidly adopt telehealth services. The level of illness experienced by residents often exceeds the capabilities of telehealth services. In

addition, persons needing Mental Health Crisis Services frequently lack the technology required for telehealth. Ramsey County Mental Health Crisis staff have continued to provide in-person, mobile crisis response as well as in-person, urgent care services at its Urgent Care for Adult Mental Health facility throughout this period of upheaval. The staff within the Ramsey County Mental Health Crisis teams have displayed unwavering courage and commitment to the needs of the Ramsey County community throughout the pandemic, even in the early days when personal protective equipment was unavailable. The ability to meet face-to-face with a crisis clinician during this time of overwhelming stress has been of great benefit to many in the Ramsey County community.

In addition to the increased usage of Mental Health Crisis Services caused by recent events and the change in overnight coverage, Adult and Children's Mental Health Crisis supervisors have been collaborating with the Emergency Communications Center (911) to route more calls related to mental health needs directly to the crisis phone lines rather than to police dispatch. Crisis supervisors have provided training to 911 staff and have made themselves available to answer questions about crisis response capabilities. This change increases the work of Mental Health Crisis staff but provides a more appropriate intervention for mental health crises.

During the first quarter of 2020 (January -March), inbound calls to Adult Mental Health Crisis averaged 584 per week. During the second quarter (April - June), Adult Crisis received an average of 774 calls per week with a high of 822 calls during the week of July 6, 2020. This represents a 33% increase. The onset of the COVID-19 pandemic initially reduced face-to-face assessments, primarily for walk-ins to the Urgent Care for Adult Mental Health site at 402 University Ave East. From May to June, however, face-to-face meetings to attempt or complete an assessment increased by 59%.

County Goals (Check those advanced by Action)

☒ Well-being

☐ Prosperity

☐ Opportunity

☐ Accountability

Racial Equity Impact

Black, indigenous and people of color (BIPOC) are overrepresented in the corrections and child protection systems. Adequately staffing Mental Health Crisis Services decreases reliance on the police and child protection to respond to mental health crises. Collaboration between Children's Mental Health Crisis and Child Welfare Early Prevention staff has kept children within their family networks when the family system is stressed rather than placed outside the home and/or involved in the child protection system. Timely Mental Health Crisis Services increases the number of adults and children who are successfully served in the community. This results in better health outcomes and better life-long outcomes in education, employment and community engagement.

Community Participation Level and Impact

Families have reported to crisis staff that they prefer calling the Mental Health Crisis lines for a mental health outreach visit over calling 911 for a police response. The increase in calls to the Mental Health Crisis lines and acceptance of face-to-face visits also indicate this preference.

As mentioned above, some adults who need to call the Mental Health Crisis line to manage symptoms reported that they could not access this service under the County's contract with Dakota County. The change in overnight coverage is a response to this stated need.

The Mental Health Crisis teams have made many efforts to inform residents about Mental Health Crisis Services by attending educational fairs, resource fairs, Ramsey County Children's Mental Health Collaborative meetings, joining with Ramsey County Public Health for an online Facebook event, visiting homeless shelters, and outreach to the Karen Organization of Minnesota, resulting in crisis staff joining the Karen Organization Community Health Advisory Committee. Crisis staff also go out with St. Paul Police Officers on co-response

visits to engage residents in community-based mental health services in an effort to divert them from correctional involvement.

☒ Inform ☒ Consult ☐ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

The four additional FTEs will cost approximately \$400,000. Sufficient funding for the positions is in the Social Services Department's budget. Costs are being offset by the following:

- Because of demonstrated need, the Minnesota Department of Human Services (DHS) increased the County Crisis Grant by \$65,744 per year for calendar years 2021 and 2022.
- A peer support specialist position budgeted at \$65,000 will not be refilled.
- The joint powers agreement with Dakota County for night-time crisis response services has been eliminated. The amount allocated for the last six-month contract was \$33,564.
- Decreased use of on-call staff and over-time hours to staff Mental Health Crisis Services.
- Decrease in the number of children and youth placed in higher levels of care.

County Manager Comments

County Board approval is required to increase personnel complement.

Last Previous Action

On August 20, 2019, the County Board authorized acceptance of a grant from the City of Saint Paul and approved the addition of two mental health professionals or practitioners to the Social Services personnel complement to co-respond with police officers on calls involving individuals with mental illness (Resolution B2019-199).

Attachments

1.None

Board of Commissioners

Request for Board Action

Item Number: 2020-291

Meeting Date: 10/6/2020

Sponsor: Medical Examiner

Title

Single Source Agreement with National Medical Services, Inc. for Toxicology Testing Services

Recommendation

1. Approve the selection of and the agreement with the National Medical Services, Inc. 200 Welsh Road, Horsham, PA, 19044 to provide postmortem toxicology testing services for the period of October 6, 2020 through March 31, 2022 with the option to renew for an additional two year period, in accordance with the rates established in the agreement.
2. Authorize the Chair and the Chief Clerk to execute the agreement.
3. Authorize the County Manager to execute amendments to the agreement in accordance with the County's procurement policies and procedures, provided the amounts are within the limits of available funding.

Background

The Ramsey County Medical Examiner's Office provides forensic services and support for coroners, medical examiners and law enforcement agencies throughout greater Minnesota and Wisconsin. As part of the forensic services the Medical Examiner's Office must provide postmortem toxicology testing for those partners the medical examiner's office supports.

Ramsey County's current vendors, Regions Hospital, Hennepin County Medical Center and Medtox Laboratory, no longer meet the Ramsey County Medical Examiner requirements. Regions Hospital no longer holds forensic certification or employs a board-certified toxicologist, Hennepin County Medical Center no longer provides testing for designer drugs or many of the prescription drugs needing to be tested by the medical examiner office, and Medtox Laboratory does not have the certification required to maintain the Ramsey County Medical Examiner Certification with the International Association of Coroners and Medical Examiner's (IACME). Due to these shortfalls the Ramsey County Medical Examiner requested a single vendor that has the appropriate accreditation.

The agreement with National Medical Services (NMS) is rate-setting and approved by procurement to be a single source agreement. National Medical Services is a nationally recognized and certified laboratory with unique qualifications. NMS Labs is one of the leading provider of postmortem toxicology testing services in the nation and is the only lab listed by the American Board of Forensic Toxicology's as being accredited by both the American Board of Forensic Toxicology and the American National Standards Institute and the National Accreditation Board. NMS has the ability to test for a wide variety of both prescription and illegal drugs and they currently offer over 2,500 tests that are exclusive to NMS labs and are not available at other commercial labs. NMS team of experts are forensically trained and has worked thousands of civil and criminal cases at the local, state, and federal level.

County Goals (Check those advanced by Action)

☐ Well-being☐ Prosperity☐ Opportunity☒ Accountability**Racial Equity Impact**

There is no direct racial equity impact linked with this agreement. This agreement is administrative only and the Ramsey County Medical Examiner involvement serves the entire community.

Community Participation Level and Impact

This action is to inform the community of an administrative change. The County provides information on this action through the County Board documentation at

<https://www.ramseycounty.us/your-government/leadership/board-commissioners/board-meetings-information>.

☒ Inform☐ Consult☐ Involve☐ Collaborate☐ Empower**Fiscal Impact**

This is a rate-setting agreement and the National Medical Services rates are specifically customized to meet the needs of the Ramsey County Medical Examiner's office. The rates will remain fixed for the original term of this agreement. At the end of the original term of the agreement the vendor can increase the rates but not more than five percent of the rates in the original term.

County Manager Comments

County Board approval is required to enter into a Single Source agreement.

Last Previous Action

None.

Attachments

1. Single Source Request
2. Professional Services Agreement

****Exceeds Contract Value Authority****

Definitions

Single Source: A direct purchase of professional or client services from one particular contractor even though other competitive sources may be available. Having a contractor provide additional services based on the experience and knowledge they have gained, along with their unique talents, allows the county to advance important county initiatives while saving the county time and money.

Sole Source: A situation created due to the inability to obtain competition. May result because only one contractor possesses the unique ability or capability to meet the particular requirements of the solicitation.

Department Section

Department: MEDEX

Requisition ID: 0000004320

Requestor: ANDREW.GREENLEE

Date: January 08, 2020

Procurement Description: Laboratory Services

Contractor Name: NMS labs

Contract Term (including renewals): 3 years, 5 months, 24 days

Anticipated Contract Value (including renewals): rate-setting

1.

Is this a single or sole source request?

Single Source

2.

Select the good or service category:

Professional Services

3.

Will the purchase be made using grant, state and/or federal funding? No

4.

Describe in detail how this procurement meets either the single source or sole source definition:

National Medical Services (NMS) is a nationally recognized and certified laboratory with unique qualifications. NMS Labs is the leading provider of postmortem toxicology testing services. They are the only lab listed on the American Board of Forensic Toxicology's (ABFT) website as being accredited by both the ABFT and the ANSI National Accreditation Board (ANAB) – see https://www.abft.org/index.php?option=com_content&view=article&id=55&Itemid=64. They are on the cutting edge of testing and are positioned better than competing labs to test for an ever-changing variety of designer drugs. The scope of their abilities to test a wide variety of both prescription and illegal drugs is always expanding. They offer over 2,500 tests that are exclusive to NMS labs, available at no other commercial labs (https://www.nmslabs.com/tests?name=a&name_op=starts). The equipment is state of the art. The staff at NMS is forensically trained in both testing and testifying.

Their team of experts has worked thousands of civil and criminal cases at the local, state, and federal levels (<https://www.nmslabs.com/expert-services>). NMS provides turn-around time that is exceptional and allows us to complete death certificates for families in a timely manner. The turn-around time also allows for expedient results for law enforcement in the case of criminal matters. NMS is used by the 3 metro medical examiner's offices.

5.

What other contractors and/or goods or services did you consider before you arrived at your conclusion? List all findings.

Regions Hospital no longer holds forensic certification or employs a board-certified toxicologist. Hennepin County's scope does not cover designer drugs nor many of the prescription drugs needing to be tested. A review of NMS and HCMC's test catalogues shows that HCMC offers 55 tests (<https://www.testmenu.com/hcmc/search?category=14>), while NMS has over 2,500 (https://www.nmslabs.com/tests?tname=a&tname_op=starts). Medtox Laboratory does not have the certification required to maintain the RCME's certification with the International Association of Coroners and Medical Examiner's (IACME). Dr. Mills requested a quote from Medtox for a price comparison on 1/23/2020, but they have not responded as of 2/3/2020. The State of Minnesota has a contract with Collaborative Testing Services for forensic lab testing, but the prices are astronomical compared to the quoted prices from NMS. For example, a blood test for alcohol from NMS is \$48; from Collaborative Testing services (under the MN contract) the blood test for alcohol is \$185. An expanded drug panel and quant for NMS is \$270, which screens and quantifies for 233 drugs. A drug test for Collaborative Testing Services is \$480 and then additional costs for the quant. From the list on the contract cocaine would cost an additional \$425 and Methamphetamine \$270.

6.

List previous solicitations and/or contracts for these goods or services:

Regions Hospital, Hennepin County Medical Center, Medtox Laboratory

7.

Explain how the contractor's cost is fair and reasonable.

NMS offered a year trial period in order to evaluate and obtain the best possible prices for this office. Many of the tests are being offered at a considerable reduction. See the attached quote for list prices and quoted prices for Ramsey County. See answer to question #5 for price comparisons. After completing the pilot program, NMS is offering prices that are specifically catered to the needs of the Ramsey County Medical Examiner's office.

8.

Are there any conflict of interest that you are aware of related to this proposed acquisition? No

9.

Single Source - Obtain documentation from the contractor to support its claim that they are uniquely qualified for this particular service and any documentation stating the work to be performed, proposal, quote/invoice. Documentation may be attached and forwarded to the Procurement Specialist.

10.

Yes, I certify that, to the best of my knowledge, there is no conflict of interest or collusion with the recommended contractor. The above information is true and accurate and that no other material fact or consideration offered or given has influenced this recommendation for a single or sole source purchase.

Name: Tiffany Krob

Date: 01/23/2020

Procurement Specialist Section

1. Is there a State Master contract available to CPV members for this purchase? ☐ Yes ☒ No

2. If yes, did the Department consider using the State Master contract? ☐ Yes ☐ No ☒ N/A

3. Is this a single source or sole source purchase?

☐ No Provide information about other available sources for the requested good or service (e.g., Master Agreement, names of contractors) and a solicitation recommendation.

☒ Yes State justification for single source or sole source classification: while there is a State of MN contract that offers *some* of the same tests, it does not cover the full range of toxicology tests required by the Ramsey County Medical Examiner's Office. Some lab services are already received from Hennepin County Medical Center (HCMC) under contract MEDEX000061, but, as noted above, HCMC does not offer all the tests required by the RCME office. NMS Labs is uniquely qualified to provide the tests they are not able to get under other contracts. They have the accreditations required for the RCME office to maintain its dual certification from the National Association of Medical Examiners (NAME) and the International Association of Coroners and Medical Examiners (IACME). The lab's unique qualifications are attested to by the fact that its services are used by all three metro-area medical examiner's offices. The prices quoted from NMS provide a good value for the County. We are unlikely to get better pricing from a similarly qualified vendor on the open market, using a competitive solicitation. The prices compare extremely favorably to the prices from State contract T-731(5), which offers some, but not all, of the required services. Previous Ramsey County solicitations for lab services have not received responses from vendors with NMS' qualifications. The two previous RFQs for lab services (MEDEX2130 and MEDEX3026) received a single response, which came from HCMC. Importantly, the NMS quote includes discounts that are catered specifically to the needs of the RCME office – the tests they request the most frequently are discounted at the highest rates. Based on projected quantities, the quoted price would reduce costs over two years from \$215,335 to \$139,515 – a huge discount. I conclude that this is a justifiable single source request and complies with applicable State and Federal regulations.

☒ Yes I certify that, to the best of my knowledge, there is no conflict of interest or collusion with the recommended contractor. The above information is true and accurate and that no other material fact or consideration offered or given has influenced this recommendation for a single or sole source purchase.

Name: Andrew Greenlee
Title: Procurement Specialist
Date: 1/23/2020

Professional Services Agreement

This is an Agreement between Ramsey County, a political subdivision of the State of Minnesota, on behalf of Ramsey County Medical Examiner (RCME), 300 East University Ave, Saint Paul, MN, 55130 ("County") and National Medical Services, Inc., 200 Welsh Road, Horsham, PA, 19044, doing business as (DBA) NMS Labs, registered as a S Corporation in the State of Minnesota ("Contractor").

1. Term

1.1.

The original term of this Agreement shall be from October 6, 2020 through March 31, 2022 and may be renewed for up to one (1) additional two year period(s).

The full term of this agreement (including renewals) is 3 year(s), 5 month(s) and 24 day(s).

1.1.1.

Contract renewals shall be made by way of a written Amendment to the original contract and signed by authorized representatives.

2. Scope of Service

The County agrees to purchase, and the Contractor agrees to furnish, services described as follows:

2.1.

Contractor shall provide postmortem toxicology testing services in accordance with the following requirements:

A. Test turnaround time: all toxicology testing will be available within 10 business days of receipt of the specimen into the laboratory.

B. Reporting:

1. Monthly utilization reports will be available.
2. Contractor's staff will enter toxicology results into a web portal designated by the County, and a paper copy of the results will be faxed to the County Medical Examiner's Office. Contractor multi factor authentication is required for access to web portal.
3. Corrected Reports will be clearly identified with header notification.
4. Reports will be clear, accurate and informative.

C. Supplies: example specimen collection and transportation instructions will be available.

D. Timely and secure transport: Contractor will provide gray top test tubes, shipping and packaging containers, and preprinted shipping forms in order for specimen transport between facilities.

E. Billing:

1. Accurate billing will be made, based upon County submission for all required and accurate information.
2. Billing discrepancies will be reviewed and resolved by the parties in a mutually agreeable manner.
3. Unique, additional, and non-routine ordered tests will be billed at a rate mutually agreed upon by both parties.

F. Customer service:

1. Contractor's staff will be available via email and phone to assist and resolve any issues that arise during normal business week hours of 7:00 a.m. – 7:00 p.m. CST Services will include facilitation of customer service complaints/issues, including follow-up investigations and documentation.
2. General Client Services (including sample and/or report facilitation and on routine service requests) and technical consultation will be available 24 x 7.
3. A formal annual Toxicology business meeting will be available, allowing clients to discuss and comment on services and their business needs.

G. Analytical quality:

1. Maintain instrumentation will be utilized for all testing performed.
2. Staffing levels are routinely evaluated to ensure optimal staffing levels, in order to meet customer needs.
3. All Toxicology reports will be finalized by Certifying Scientists; individuals with demonstrated competency for specialized testing and result reporting.
4. Chain of Evidence/Custody will be maintained throughout testing process by laboratory with records maintained by Contractor and made available if requested by the Medical Examiner.

H. Test changes and additions:

1. A laboratory client representative will notify and discuss with you any new testing, pricing, and methodology that is being considered or newly offered. If a decision is made to adopt a new test or methodology at the time of adoption, negotiations for test price will be conducted.
2. Ramsey County reserves the right, during the term of the resulting contract, to request pricing and add to the contract similar items, via written amendment, in order to accommodate inadvertent omissions, unanticipated service needs, and/or new service offerings.

I. Credentials:

The Contractor will ensure the necessary accreditations, certifications and technical staff board certifications and licensures are maintained during the entire Term of this Agreement, including lab accreditation by the American Board of Forensic Toxicology (ABFT). In the event that the required accreditations, licenses or certifications cease to be valid at any time during this period, the Contractor shall ensure all related activity ceases under this Agreement. Contractor shall simultaneously advise the County of the status of the accreditation, certification or license and status of the facility or technical staff involved.

2.2.

Services shall be provided at NMS Labs. If services are provided at any other locations, it shall be deemed an alteration of this Agreement that must be reduced to writing.

2.3.

The Contractor shall make every reasonable effort to maintain a sufficient staff, facilities, and equipment to deliver the services. The Contractor shall within ten (10) days notify the County in writing whenever it is, or reasonably believes it is going to be, unable to provide the required quality or quantity of services. The foregoing conditions will be subject to the provisions of the Force Majeure Clause of this Agreement.

2.4.

The Contractor shall make every reasonable effort to provide services in a universally accessible, multi-cultural and/or multi-lingual manner to persons of diverse populations.

2.5.

The Contractor agrees to furnish the County with additional programmatic and financial information it reasonably requires for effective monitoring of services. Such information shall be furnished within a reasonable period, set by the County, upon request.

3. Schedule

The Contractor shall provide services as and if requested by the County, it being understood that the County might not purchase any services under this Agreement.

4. Cost**4.1.**

The County shall pay the Contractor the following unit rates:

A. Unit rates for tests:

6-Monoacetylmorphine - Free (Unconjugated), Fluid:	\$232
Alcohol Panel, Fluid:	\$48
Carbon Monoxide Exposure Biouptake Screen, Blood:	\$62
Designer Opioids (2018 Scope), Blood:	\$293
Electrolytes and Glucose Panel (Vitreous), Fluid (Forensic):	\$68
Novel Psychoactive Substances (NPS) Screen 1, Blood:	\$285
Novel Psychoactive Substances (NPS) Screen 2, Blood:	\$234
Postmortem Designer Opioids Add-On, Blood:	\$156
Postmortem, Basic, Blood (Forensic):	\$142
Postmortem, Basic, Fluid (Forensic):	\$203
Postmortem, Basic, Serum/Plasma (Forensic):	\$142
Postmortem, Basic, Tissue (Forensic):	\$255
Postmortem, Basic, Urine (Forensic):	\$142
Postmortem, Expanded, Blood (Forensic):	\$215
Postmortem, Expanded, Fluid (Forensic):	\$499
Postmortem, Expanded, Serum/Plasma (Forensic):	\$215
Postmortem, Expanded, Tissue (Forensic):	\$530
Postmortem, Expanded, Urine (Forensic):	\$215
Postmortem, Urine Screen Add-on (6-MAM Quantification only):	\$26
Synthetic Cannabinoids (Add-On), Blood:	\$166
Synthetic Cannabinoids Screen (2019 Scope), Blood:	\$232
Alcohol Panel, Blood:	\$68
Other tests from Contractor's Test Catalog:	list price

B. Specimen returns: the return of specimens is upon request from County. County will pay a \$50/specimen for returns.

C. Price escalation: prices will remain fixed for the original term of this agreement. Contractor must notify Ramsey County Medical Examiner of a price increase for the renewal period six months prior to the end of the original term. A price increase for the renewal period must not exceed 5% and will be established via written amendment.

5. General Contract/Agreement Terms and Conditions

5.1. Payment

5.1.1.

No payment will be made until the invoice has been approved by the County.

5.1.2.

Payments shall be made when the materials/services have been received in accordance with the provisions of the resulting contract.

5.2. Application for Payments

5.2.1.

The Contractor shall submit an invoice as mutually agreed upon by Contractor and the County.

5.2.2.

Invoices for any goods or services not identified in this Agreement will be disallowed.

5.2.3.

Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount.

5.2.4.

Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges.

5.2.5.

Payment of interest and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

5.2.6.

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the County for undisputed services provided by the subcontractor. The Contractor shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

5.3. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners or joint ventures between the parties or as constituting the Contractor as an employee of the County.

5.4. Successors, Subcontracting and Assignment

5.4.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the County in respect to all covenants and obligations contained in this Agreement.

5.4.2.

The Contractor shall not assign or transfer any interest in this Agreement without prior written approval of the County and subject to such conditions and provisions as the County may deem necessary.

5.5. Compliance With Legal Requirements

5.5.1.

The Contractor shall comply with all applicable federal, state and local laws and the rules and regulations of any regulatory body acting thereunder and all licenses, certifications and other requirements necessary for the execution and completion of the contract.

5.5.2.

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

5.6. Data Practices

5.6.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

5.6.2.

The Contractor designates Bill Sweeney as its Responsible Designee, pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.02 Subdivision 6, as the individual responsible for any set of data collected to be maintained by Contractor in the execution of this Agreement.

5.6.3.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which County data is contained or which are used to access County data in the course of providing services under this Agreement. Access to County data shall be limited to those persons with a need to know for the provision of services by the Contractor. At the end of the Project all County data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the County written verification that the data has been purged. If it is not feasible for the County data to be purged, Contractor shall continue to ensure County data is secured and protected in accordance with requirements of this Agreement for as long as the Contractor possesses County data and those requirements shall survive the termination or expiration of this Agreement.

5.7. Security

5.7.1.

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

5.7.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the County not more than 7 days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the County may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

5.7.3.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

5.7.4.

The County retains the right to inspect and review the Contractor's operations for potential risks to County operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

5.7.5.

All County data and intellectual property stored in the Contractor's system is the exclusive property of the County.

5.8. Indemnification

The Contractor shall indemnify, hold harmless and defend the County, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors, and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

5.9. Contractor's Insurance

5.9.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

5.9.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the County contracting department evidencing such coverage to the County throughout the term of this Agreement.

5.9.3.

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability.

5.9.3.1.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability. Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion.

5.9.3.2.

The Contractor is required to add Ramsey County, its officials, employees, volunteers and agents as Additional Insured to the Contractor's Commercial General Liability, Auto Liability, ~~Pollution~~ and Umbrella policies with respect to liabilities caused in whole or part by Contractor's acts or omissions, or the acts or omissions of those acting on Contractor's behalf in the performance of the ongoing operations, services and completed operations of the Contractor under this Agreement. The coverage shall be primary and non-contributory.

5.9.4.

Medical Professional liability of no less than \$1,000,000 per claim and \$3,000,000 aggregate limit.

5.9.4.1.

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

5.9.4.2.

Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured; a separation of insureds endorsement shall be provided to the benefit of the County.

5.9.5.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

5.9.6.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability

insurance amounts. If provided to meet coverage requirements, the umbrella or excess liability policy must follow form of underlying coverages and be so noted on the required Certificate(s) of Insurance.

5.9.7.

Contractor shall obtain and maintain Network Security and Privacy Liability Insurance, including first-party and third-party costs, for any privacy breach or security failure arising out of Contractor's performance of its services under this Contract that compromises Ramsey County data.

\$1,000,000 – per occurrence
\$2,000,000 – annual aggregate

If the policy is claims-made, the retroactive/prior acts date of such coverage shall be prior to the effective date of this Contract and Contractor shall maintain such insurance for a period of at least three (3) years following completion of the work.

5.9.8.

The Contractor waives all rights against Ramsey County, its officials, employees, volunteers or agents for recovery of damages to the extent these damages are covered by the general liability, worker's compensation, and employers liability, automobile liability and umbrella liability insurance required of the Contractor under this Agreement.

5.9.9.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Copies of policies shall be submitted to the County upon written request.

5.9.10.

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

5.9.11.

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the County.

5.9.12.

All Certificates of Insurance shall provide that the insurer give the County prior written notice of cancellation or non-renewal of the policy as required by the policy provisions of Minn. Stat. Ch. 60A, as applicable. Further, all Certificates of Insurance to evidence that insurer will provide at least ten (10) days written notice to County for cancellation due to non-payment of premium.

5.9.13.

Nothing in this Agreement shall constitute a waiver by the County of any statutory or common law immunities, defenses, limits, or exceptions on liability.

5.9.14.

A Crime and Fidelity Bond is required if the Contractor is handling money for the County or has fiduciary responsibilities. The required amount will be as set forth in the solicitation document.

5.10. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon request, shall make available to the County, the State Auditor, or the County's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

5.11. Notices

All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

County:

Tiffany Krob, 300 East University Ave., Saint Paul, MN, 55130

Contractor:

Andrew Nolan, 200 Welsh Road, Horsham, PA 19044

5.12. Non-Conforming Services

The acceptance by the County of any non-conforming goods/services under the terms of this Agreement or the foregoing by the County of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the County's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

5.13. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Contractor. The County may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

5.14. Conflict of Interest

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

5.15. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

5.16. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

5.17. Unavailability of Funding - Termination

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The County may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the County's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the County.

5.18. Termination

5.18.1.

The County may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the County upon the commencement of such proceedings or other action.

5.18.2.

If the Contractor violates any material terms or conditions of this Agreement the County may, without prejudice to any right or remedy, give the Contractor, and its surety, if any, seven (7) calendar days written notice of its intent to terminate this Agreement, specifying the asserted breach. If the Contractor fails to cure the deficiency within the seven (7) day cure period, this Agreement shall terminate upon expiration of the cure period.

5.18.3.

The County may terminate this Agreement without cause upon giving at least thirty (30) calendar days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.

5.19. Interpretation of Agreement; Venue

5.19.1.

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

5.19.2.

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

5.20. Warranty

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

5.21. Infringement

5.21.1.

Complementary to other "hold harmless" provisions included in this Agreement, the Contractor shall, without cost to the County, defend, indemnify, and hold the County, its officials, officers, and employees harmless against any and all claims, suits, liability, losses, judgments, and other expenses arising out of or related to any claim that the County's use or possession of the software, licenses, materials, reports, documents, data, or documentation obtained under the terms of this Agreement, violates or infringes upon any patents, copyrights, trademarks, trade secrets, or other proprietary rights or information, provided that the Contractor is promptly notified in writing of such claim. The Contractor will have the right to control the defense of any such claim, lawsuit, or other proceeding. The County will in no instance settle any such claim, lawsuit, or proceeding without the Contractor's prior written approval.

5.21.2.

If, as a result of any claim of infringement of rights, the Contractor or County is enjoined from using, marketing, or supporting any product or service provided under the agreement with the County (or if the Contractor comes to believe such injunction imminent), the Contractor shall either arrange for the County to continue using the software, licenses, materials, reports, documents, data, or documentation at no additional cost to the County, or propose an equivalent, subject to County approval. The acceptance of a proposed equivalent will be at the County's sole discretion. If no alternative is found acceptable to the County acting in good faith, the Contractor shall remove the software, licenses, materials, reports, documents, data, or documentation and refund any fees and any other costs paid by the County in conjunction with the use thereof.

5.22. Debarment and Suspension

Ramsey County has enacted Ordinance 2013-330 [Ramsey County Debarment Ordinance](#) that prohibits the County from contracting with contractors who have been debarred or suspended by the State of Minnesota and/or Ramsey County.

5.23. Diverse Workforce Inclusion

For information and assistance in increasing the participation of women and minorities, contractors are encouraged to access the web sites below:

1. <http://www.JobConnectmn.com/>
2. <http://www.ConstructionHiringConnection.com/>

Job Connect and the Construction Hiring Connection provide a recruiting source for employers and contractors to post job openings and source diverse candidates.

Ramsey County's Job Connect links job seekers, employers, and workforce professionals together through our website, networking events and community outreach. The network includes over 10,000 subscribed job seekers ranging from entry-level to highly skilled and experienced professionals across a broad spectrum of industries.

Employers participate in the network by posting open jobs, meeting with workforce professionals and attending hiring events. Over 200 Twin Cities community agencies, all working with job seekers, participate in the network.

Ramsey County's Construction Hiring Connection (CHC) is an online and in-person network dedicated to the construction industry. The Construction Hiring Connection connects contractors and job seekers with employment opportunities, community resources and skills training related to the construction industry. Construction Hiring Connection is a tool for contractors to help meet diversity hiring goals. Over 1000 construction workers, representing all trades, ranging from newly graduated to journey level, are subscribed to the Construction Hiring Connection.

Additional assistance is available through jobconnectmn@ramseycounty.us or call 651-266-6042.

5.24. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

5.25. Entire Agreement

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the County and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

Board of Commissioners

Request for Board Action

Item Number: 2020-279

Meeting Date: 10/6/2020

Sponsor: Property Tax, Records & Election Services

Title

Increased Compensation for Election Judges for the 2020 Primary and General Election

Recommendation

Approve a temporary \$4.00 per hour increase to the current hourly rate for election judges assigned by the Ramsey County Elections office for the 2020 Primary and General elections, effective September 1, 2020 - December 31, 2020, with the new temporary rates being:

Absentee ballot board judges	\$20.00 per hour
Voting system judges	\$20.00 per hour
Area logistics judges	\$18.00 per hour
Head judges	\$18.00 per hour
Assistant head judges	\$16.00 per hour
Precinct & Student judges	\$14.00 per hour

Background

The Elections Office is responsible for administering state and county elections for the County and, under contract, to perform similar duties on behalf of 12 municipalities and 5 school districts in the County. Minnesota Statutes section 204B.21 sets forth the duty to appoint election judges and Minnesota Statutes section 204B.31, subd.1(4) requires election judges to be compensated for their service. Election judges are County employees and the County Board sets the compensation of all County employees under Minnesota Statutes section 383A.282.

Serving as an election judge is one of the most valuable methods of civic engagement available to County residents, and election judges play an essential part in the administration of elections in the County. The dramatic increase in absentee voting, attributed to COVID-19, has created an even greater demand for these services at our early vote centers and administrative offices to process absentee ballots.

Neighboring municipalities have set election judge compensation starting at \$17 per hour. To ensure the County remains competitive amid the election judge recruitment process and can recruit an election judge pool reflective of our county's population, the Elections Office is requesting the County Board approve a \$4.00 per hour increase for all election judges serving in the 2020 General election.

County Goals (Check those advanced by Action)

☐ Well-being ☒ Prosperity ☒ Opportunity ☒ Accountability

Racial Equity Impact

The Elections Office recognizes the need to remain competitive with other local jurisdictions in the election judge recruitment process, and to ensure our election judges reflect the diverse community which they serve. The Elections Office is working with the County's nineteen community partners to perform voter outreach and recruit election judges, which has enabled the County to focus outreach on specific communities and

precincts. The County's community partners have also translated voter outreach and election judge recruitment videos and are attending public events on the County's behalf.

The Elections office follows the 1965 Voter Rights Act which requires election administrators to provide language assistance tools in the polling places. The County has been able to meet and exceed this expectation through the work with the community partners, who have helped the County see up to a 30% monthly recruitment rate, since January 2020, of election judges who identify as non-white and/or are bi-lingual.

Community Participation Level and Impact

The Elections Office actively encourages the widest possible participation in the elections process by members of the community, particularly by those individuals who are traditionally under-represented in the voting population. The recruitment of election judges from non-traditional backgrounds to serve at the 2020 General election is ongoing and will promote social equity.

Work being done to support the County's racial equity and community engagement goals includes the elections communications campaign and work with the County's nineteen elections community partners. The kickoff to the communications campaign was a vote-by-mail postcard. The post card was sent to registered and non-registered voters, hitting every residential mailbox in the County. The post card included content in multiple languages and discussed how to request an absentee ballot. The communication campaign also includes targeted social media outreach, paid advertisements, radio interviews and translated videos. An example of this outreach are radio ads on community-based radio stations - Radio Rey, KMOJ, and KFAI.

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☒ Empower

Fiscal Impact

The compensation increase will be funded via elections specific CARES Act dollars provided through a grant offered by the MN Secretary of State's Office. The estimate cost is \$145,000 (\$70,000 for General Election judges, \$30,000 for ballot board and early voting judges, \$40,000 for judges fulfilling vote by mail requests).

County Manager Comments

County Board approval is required to change compensation for County employees.

Last Previous Action

On July 19, 2016, the County Board approved the hourly compensation schedule for election judges and election clerks (Resolution 2016-186).

Attachments

1. None

Board of Commissioners

Request for Board Action

Item Number: 2020-282

Meeting Date: 10/6/2020

Sponsor: Property Tax, Records & Election Services

Title

First Amendment to Professional Services Agreement with Hart InterCivic, Inc. for Elections Voting System

Recommendation

1. Approve the amendment to the agreement with Hart InterCivic to renew the agreement for the period from November 10, 2020 through November 9, 2025, and to make the following changes to the agreement:
 - a. Change the agreement from a not to exceed contract to a rate setting contract;
 - b. Specify that professional services or extended warranties requested after November 10, 2020 will be subject to additional fees; and
 - c. Establish a separate limitation of liability applicable to new purchased made after November 10, 2020.
2. Authorize the Chair and Chief Clerk to execute the amendment.
3. Authorize the County Manager to execute change orders and amendments to agreement in accordance with the County's procurement policies and procedures, provided the amounts are within the limits of funding.

Background

The Ramsey County Elections Office is responsible for administering state and county elections for the County. Minnesota Statutes section 206.58 provides for the County Board to provide for the use of an electronic voting system, and for Ramsey County municipalities to adopt the use of the same electronic voting system.

County Board Resolution (B2015-315) approved the selection of Hart InterCivic to provide its Verity election voting system for the period of November 10, 2015 through November 9, 2020, at a not to exceed amount of \$2,750,000. The resolution also authorized the County Manager to approve and execute amendments to renew the term of the original agreement for an additional five years, with all other terms and conditions remaining the same. The resolution did not authorize the County Manager to execute additional amendments and change orders to the agreement.

County Board Resolution (B2016-021) approved the Joint Powers Agreement for New Voting System Acquisition and Operation with participating municipalities for use of the Hart InterCivic electronic voting system, for a ten-year term from April 26, 2016 through April 25, 2026.

The Property Tax, Records & Election Services department (PTRES) is requesting to renew and amend the agreement's terms and conditions so that the Ramsey County Elections Office can continue to hold elections in a secure and efficient manner, continue in its commitment to the Joint Powers Agreement with participating municipalities for use of the Hart InterCivic electronic voting system, and utilize a rate-setting contract to more efficiently make future purchases covered by the agreement's terms and pricing.

County Goals (Check those advanced by Action)☐ Well-being☐ Prosperity☒ Opportunity☒ Accountability**Racial Equity Impact**

By renewing the agreement with Hart InterCivic for the electronic voting system, Ramsey County will continue to provide a secure and efficient voting experience to its residents. The electronic voting system enables Ramsey County to provide its residents with multiple avenues for voting (no-excuse early voting by mail, early voting in-person, and in-person voting on election days), and ensures that votes are counted accurately and securely, and reported in an efficient manner. With these voting options and assurances, Ramsey County can continue to provide high-quality election services while reducing wait times for voting, which have been shown to disproportionately impact minority communities.

Community Participation Level and Impact

No direct community participation. Information about this action is made available through County Board documentation published on the County's website at

<https://www.ramseycounty.us/your-government/leadership/board-commissioners/board-meetings-information>.

☒ Inform☐ Consult☐ Involve☐ Collaborate☐ Empower**Fiscal Impact**

The additional cost of utilizing the Hart InterCivic electronic voting system over the next five years represents an initial amount of \$575,763 for license and support fees, payable in annual installments over the five-year renewal period. The annual license and support fees (\$96,887 in year one of the renewal) are paid from the Elections project budget for the voting system, which is funded via payments received from the County's municipalities as defined in the Joint Powers Agreement for New Voting System Acquisition and Operation. For the current voting system, the County and municipalities have made an initial equipment investment of approximately \$2.2 million. The County owns all equipment needed to administer the voting system, prepare ballots for each election and to count all absentee ballots. The County also owns all backup equipment needed to support the polling place operations. Existing equipment was purchased during the initial term of the agreement and is fully paid for.

County Manager Comments

County Board approval is required for this amendment, and County Manager authority is required for future amendments and change orders to the agreement.

Last Previous Action

On January 19, 2016, the County Board approved the Joint Powers Agreement for New Voting System Acquisition and Operation with the cities of Arden Hills, Falcon Heights, Gem Lake, Lauderdale, Little Canada, Maplewood, Mounds View, New Brighton, North Oaks, North Saint Paul, Roseville, Saint Anthony, Saint Paul, Shoreview, Vadnais Heights, White Bear Lake and the White Bear Township for the acquisition and operation of the new Hart InterCivic voting system for a ten year term (Resolution B2016-021).

October 13, 2015, the County Board approved the selection of Hart InterCivic as vendor to provide the new voting system, and authorized the execution of an agreement for the period of November 10, 2015 through November 9, 2020, at an amount not to exceed \$2,750,000. The board authorized the County Manager to approve and execute amendments to renew the term of the agreement for an additional five years, with all other terms and conditions remaining the same (Resolution B2015-315).

May 5, 2015, the County Board authorized the issuance of a Request for Proposal to acquire a new voting

system for use in all elections conducted in the County in accordance with County policies and procedures on RFPs, with direction to staff to return to the county board with a recommendation for selection of a vendor (Resolution B2014-144).

Attachments

1. First Amendment to Professional Services Agreement with Hart InterCivic, Inc.
2. Professional Services Agreement with Hart InterCivic, Inc. dated November 10, 2015

First Amendment to PRREL000002

This is the First Amendment (“First Amendment”) to the Professional Services Agreement (“Agreement”), dated November 10, 2015, between Ramsey County (“County”) and Hart InterCivic, Inc. (“Contractor”) for the Election Voting System (“System”).

The parties agree to amend the Agreement as follows:

1. Section 1:

The term of this Agreement shall be renewed for five (5) years, and will expire on November 9, 2025.

2. Section 4.1 is amended to change the Agreement from a maximum not to exceed contract, to a rate setting contract:

The County shall pay the Contractor the following unit rates: as set forth in Exhibit A and Exhibit C. The License and Support Subscription Annual Fees, as defined in Section 7.1.3, for the duration of the five-year renewal term will total \$575,763.00 for County’s current software license quantity (see Table 1 below). The maximum not to exceed sum under this Agreement is \$2,750,000.

Combined Renewals						
5 Year Renewal Option (Years 6 - 10)						
Period	Touch Writers	Scans	Software	Year	Amount	
12/01/20 -- 11/30/21	223	220	13	6	\$	96,887
07/01/21 -- 11/30/22			4	2	\$	9,821
12/01/21 -- 11/30/22	223	220	13	7	\$	97,856
12/01/22 -- 11/30/23	223	220	17	8	\$	122,504
12/01/23 -- 11/30/24	223	220	17	9	\$	123,729
12/01/24 -- 11/30/25	223	220	17	10	\$	124,966

Table 1

3. Section 5 is hereby amended to add the following sections 5.2 and 5.3:

Section 5.2

The professional services described in Section 3 of the Agreement, and Section 4 of Exhibit B, shall not apply to any products or services purchased by County on or after November 10, 2020. Contractor shall have no installation, implementation, training or other professional services obligations with respect thereto unless otherwise agreed to by the parties.

Section 5.3

Except for any additional extended warranties purchased by County in accordance with Section 8 of Exhibit B and the Exhibit C price sheet, warranties applicable to any products or services purchase by County on or after November 10, 2020 shall be exclusively as stated in Section 6 of Exhibit E.

4. In accordance with Section 5.1 of the Agreement, the existing Exhibit C price sheet is removed and replaced by the price sheet provided in the **Exhibit C attached to this First Amendment.**

5. Section 7.9 is hereby amended to add the following:

IN ADDITION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CONTRACTOR'S TOTAL LIABILITY TO COUNTY FOR DAMAGES ARISING OUT OF OR RELATING TO THE HARDWARE, THE SOFTWARE, OR SERVICES PURCHASED HEREUNDER AFTER NOVEMBER 10, 2020 WILL IN NO EVENT EXCEED TWO TIMES (2X) THE TOTAL AMOUNT ACTUALLY PAID BY COUNTY TO CONTRACTOR UNDER THE QUOTE FOR THE HARDWARE, SOFTWARE OR SERVICE GIVING RISE TO THE APPLICABLE CLAIM. THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

6. Except as modified herein, the terms of the Agreement shall remain in full force and effect.

AMENDMENT 1 - EXHIBIT C



Ramsey County, MN
Verity Price List
8/5/2020

Product	Product Description	List Price	Unit Price	Rental Price ²
Voting Devices¹				
Verity Print	Paper ballot printing unit	\$5,875.00	\$5,288.00	\$1,960.00
Verity Scan	Digital ballot scanner	\$6,100.00	\$5,490.00	\$2,035.00
Verity Touch Writer w/ Access	Ballot marking device with accessibility	\$5,300.00	\$4,770.00	\$1,770.00
Computers				
Verity Workstation (Z240) w/Monitor	Workstation for Verity software w/ 5-year warranty; includes monitor	\$5,900.00	\$5,310.00	\$1,970.00
Verity Workstation (Z240)	Workstation for Verity software w/ 5-year warranty	\$5,550.00	\$4,995.00	n/a
Printers and Scanners				
Canon DR-G1100 Central Scanner	Central ballot scanner w/ 1-year warranty	\$7,500.00	\$6,750.00	n/a
Canon DR-G1130 Central Scanner - Used	Central ballot scanner	\$6,600.00	\$6,600.00	\$6,100.00
Okidata B432dn Printer	Laser printer w/ starter cartridge for report printing	\$380.00	\$380.00	n/a
Okidata C831 Printer	Ballot printer w/ starter cartridges	\$4,000.00	\$3,600.00	n/a
Software¹				
Verity Build	Verity Build software; includes Verity Data	\$50,000.00	\$45,000.00	\$16,675.00
Verity Central	Verity Central software (250,000+ registered voters)	\$60,000.00	\$54,000.00	\$20,000.00
Verity Central - Client	Verity Central software - Client (250,000+ registered voters)	\$15,000.00	\$13,500.00	\$5,000.00
Verity Count	Verity Count software	\$15,000.00	\$13,500.00	\$5,000.00
Verity Count - Networked	Verity Count software	\$7,500.00	\$6,750.00	\$2,500.00
Verity Relay	Verity Relay software	\$10,000.00	\$9,000.00	\$3,335.00
Accessories				
Accessible Booth Transport Bag		\$85.00	\$85.00	n/a
Ballot Box Transport Bag		\$60.00	\$60.00	n/a
Battery Charger, 1 Bay	1-bay charger for Verity voting device battery	\$185.00	\$185.00	n/a
Battery Charger, 6 Bay	6-bay charger for Verity voting device battery	\$704.00	\$704.00	n/a
Ethernet Cable, 15'		\$20.00	\$20.00	n/a
Ethernet Switch, 8 Port		\$89.00	\$89.00	n/a
Hard Drive, 1 TB	Hard drive for Verity Workstation; includes sled	\$600.00	\$600.00	n/a
Hard Drive Sled	Removable sled for installation of hard drive in Verity Workstation	\$350.00	\$350.00	n/a
Jelly Switches	Low-impact input switches for accessible units	\$183.70	\$183.70	n/a
Printer Stand	Small table for printer	\$50.00	\$50.00	n/a
Privacy Screen (Black)	-	\$15.00	\$15.00	n/a
Relay Modem Kit ¹	4G modem kit required for electronic transmission from Verity Scan. Customer responsible for activation.	\$500.00	\$500.00	n/a
Scan Calibration Kit	Kit to calibrate and test scanning speed of ballot scanner	\$34.00	\$34.00	n/a
Uninterruptible Power Supply (UPS)	UPS for printer accompanying Verity Touch Writer or Verity Print	\$725.00	\$725.00	n/a
USB Extension Cable	Cable to protect USB ports on Verity Workstation	\$21.50	\$21.50	n/a
Verity Accessible Booth	Wheelchair-accessible voting booth w/ transport bag and privacy screens for Verity Touch Writer w/ Access	\$430.00	\$430.00	n/a
Verity Headphones	Headphones for Verity accessible units	\$20.00	\$20.00	n/a
Verity Power Supply	Power supply for Verity voting device (power cord sold separately)	\$89.00	\$89.00	n/a
Consumables				
Drum Kit, Okidata B431dn, Black	Drum kit for Okidata B431dn printer	\$175.00	\$175.00	n/a
Drum Kit, Okidata B432dn, Black	Drum kit for Okidata B432dn printer	\$175.00	\$175.00	n/a
Drum Kit, Okidata C831, Black	Drum kit for Okidata C831 printer	\$175.00	\$175.00	n/a
Thermal Paper Roll (White)	Paper roll for voting unit	\$1.05	\$1.05	n/a
Toner Cartridge, Okidata B431dn	Black toner for Okidata B431dn printer	\$165.00	\$165.00	n/a
Toner Cartridge, Okidata B432dn, Black	Black toner for Okidata B432dn printer	\$165.00	\$165.00	n/a
Toner Cartridge, Okidata C831, Black	Black toner for Okidata C831 printer	\$130.00	\$130.00	n/a
Toner Cartridge, Okidata C831, Cyan	Cyan toner for Okidata C831 printer	\$300.00	\$300.00	n/a
Toner Cartridge, Okidata C831, Magenta	Magenta toner for Okidata C831 printer	\$300.00	\$300.00	n/a
Toner Cartridge, Okidata C831, Yellow	Yellow toner for Okidata C831 printer	\$300.00	\$300.00	n/a
vDrive	Flash memory card/audio card for use with Verity devices	\$66.00	\$66.00	n/a
Verity Key	Electronic security token	\$109.00	\$109.00	n/a



Product	Product Description	List Price	Unit Price	Rental Price ²
Service and Support				
Election Day Support		\$6,000.00	\$6,000.00	n/a
Engineering Services	Daily rate with statement of work required	\$2,000.00	\$2,000.00	n/a
Professional Services	Daily rate (<i>statement of work may be required</i>)	\$2,000.00	\$2,000.00	n/a
Ballot Vendor Export	Statement of work required	n/a	n/a	n/a
Rank Voting Feature	Statement of work required	n/a	n/a	n/a
Rotation Calculation	Statement of work required	n/a	n/a	n/a
Remote Training	Online training session for Hart products	\$1,250.00	\$1,250.00	n/a
Extended Warranty				
Extended Warranty (1 Yr) - Verity Print		\$60.00	\$60.00	n/a
Extended Warranty (1 Yr) - Verity Scan		\$120.00	\$120.00	n/a
Extended Warranty (1 Yr) - Verity Touch Writer		\$60.00	\$60.00	n/a
Ballot Layout and Printing				
	<u>Number of Contests</u>			
	1-5	\$1,900.00	\$1,800.00	n/a
	6-10	\$3,795.00	\$3,036.00	n/a
	11-20	\$4,950.00	\$3,630.00	n/a
	21-40	\$6,270.00	\$4,598.00	n/a
	41-75	\$7,920.00	\$5,808.00	n/a
	76-100	\$9,405.00	\$6,897.00	n/a

¹Annual License and Support Fees apply for Voting Devices, Software, and Relay Modem Kit.

²Rental pricing is per an election. Quantity subject to rental pool availability. Items with "n/a" in price are not available for rent.



Professional Services Agreement

This is an Agreement between Ramsey County, a political subdivision of the State of Minnesota, on behalf of Property Records and Revenue, 90 W. Plato Blvd., St. Paul, MN., 55107 ("County") and Hart InterCivic, Inc, 15500 Wells Port Drive, Austin, TX., 78728, registered as a Corporation in the State of Minnesota ("Contractor").

1. Term

The term of this Agreement shall be from November 10, 2015 and shall continue for five (5) years and may be renewed for another five (5) years. Contract renewals shall be made by way of a written Amendment to the original contract and signed by authorized representatives.

2. Scope of Service

The County agrees to purchase, and the Contractor agrees to furnish, services described as follows:

2.1.

The Contractor shall provide the equipment, licenses, documentation, training and installation, implementation, warranty and maintenance, support and hosting services set forth on the Contractor Quote attached hereto as Exhibit A, the Scope of Services, and Terms and Conditions set forth on Exhibit B, for the Contractor's voting system (the "Voting System"), and further Contractor terms set forth in Exhibit E, Verity Master Terms. In the event of a conflict between this Agreement and Exhibit E, Exhibit E shall control with respect to the matters set forth therein.

2.2.

Services shall be provided at 90 W. Plato Blvd., St. Paul, MN, 55107, or at other locations specified by the County. If services are provided at any other locations, it shall be deemed an alteration of this Agreement that must be reduced to writing.

2.3.

The Contractor shall make every reasonable effort to maintain a sufficient staff, facilities, and equipment to deliver the services. The Contractor shall within ten (10) days notify the County in writing whenever it is, or reasonably believes it is going to be, unable to provide the required quality or quantity of services. The foregoing conditions will be subject to the provisions of the Force Majeure Clause of this Agreement.

2.4.

The Contractor shall make every reasonable effort to provide services in a universally accessible, multi-cultural and/or multi-lingual manner to persons of diverse populations.

2.5.

The Contractor agrees to furnish the County with additional programmatic and financial information it reasonably requires for effective monitoring of services. Such information shall be furnished within a reasonable period, set by the County, upon request.

3. Schedule

The Contractor shall provide services as follows, unless alternate dates are agreed by the parties (email sufficient): 1. Delivery of all equipment shall begin December 1, 2015, and be completed no later than December 11, 2015. 2. Acceptance testing will conclude by December 23, 2015. At the successful conclusion of testing for each delivery of equipment, the County shall issue a written

Notice of Acceptance to Contractor. 3. Initial County elections staff training on the operations and administration of the Voting System shall take place at the County Elections Office at a time mutually agreeable to the County and Contractor between January 19, 2016, and January 22, 2016.

4. Cost

4.1.

The County shall pay the Contractor the following unit rates: as set forth on Exhibit A. The maximum not to exceed sum under this Agreement is \$2,750,000.

5. Special Conditions

5.1.

Exhibit C attached hereto sets forth the Contractor's prices and options for all equipment and services that may be purchased by the County during the term of the Agreement, including options to purchase, lease, and lease to purchase. Contractor will be required to submit an updated price schedule for the price sheets in Exhibit C for each successive year of the duration of this Agreement. Pricing will not change during the first twelve (12) months after the commencement date of the Agreement. After the initial twelve (12) months, and annually thereafter on the anniversary of the Agreement, a price change request may be submitted by Contractor to the County. All price change requests must be submitted in writing to the County forty-five (45) days prior to the date the requested changes will take effect and must be accompanied by appropriately documented market justification. Price changes will only be granted with written approval from the County. The maximum increase in prices on products, services, licenses, maintenance, spare parts, on-site technical support may not exceed an aggregate of more than 2% per each two-year period. Contractor shall provide a price sheet for additional equipment, services, parts and supplies at the request of the County.

6. County Roles and Responsibilities

The County shall conduct acceptance testing of all equipment. Prior to the start of acceptance testing, Contractor shall prepare and deliver a documented procedure to be used by County elections staff to prepare the Voting System components for testing. All equipment must be fully assembled and all Voting System components must be made available to County elections staff for testing. Contractor will assist the County, as needed, to perform this activity. Voting System components identified by County staff that are malfunctioning and that cannot be easily repaired on site will not be accepted. The County's acceptance testing will be conducted in a manner consistent with the components defined for Hart InterCivic Verity Voting System 1.0 as integrated with Verity Voting 1.2.3 Minnesota Reporting Additions, as certified by the State of Minnesota Secretary of State June 16, 2015. The number of accepted units shall be the number of fully functioning and fully assembled units delivered to the County which have successfully completed the County's acceptance testing.

7. General Contract/Agreement Terms and Conditions

7.1. Payment

7.1.1.

Invoices shall show applicable Minnesota sales tax of 6.875% separately.

7.1.2.

No payment will be made until the invoice has been approved by the County. Invoices issued prior to November 10, 2015, but after County board approval shall be valid invoices hereunder.

7.1.3.

Payment shall be based on the following invoice schedule.

- Products: Products will be billed as deliverables are made of equipment. The County's payment is conditioned upon supplying its Notice of Acceptance and the terms of this Agreement.

- Annual Fee: The Annual Fee for the initial License and Support Subscription is due upon execution of this Agreement and annually thereafter before expiration thereof. Annual Fees for subsequently ordered License and Support Subscriptions, if any, shall be due upon acceptance of order and unless specified on the applicable quotation, the corresponding Annual Fees for renewals thereof shall be due annually with the renewal of the initially-ordered License and Support Subscription (i.e. shall be pro-rated and become co-terminus). If Customer fails to timely pay an Annual Fee and does not cure the failure within the thirty-five (35) day period following notice thereof, all Software licenses and Software Support Services will automatically terminate. The "Annual Fee" is the combined fee for licensing (in the case of Hart Proprietary Software), sublicensing (in the case of Sublicensed Software, if any), and support (a "License and Support Subscription").

- Other Services: Amounts due for other Services shall be billed upon the earlier to occur of one or more of the following: first election in which the Professional Services are used; receipt of Services acceptance; not later than sixty (60) days after the date of Customer's first election in which any portion of the Hardware and/or Software is used.

7.2. Application for Payments

7.2.1.

Reserved.

7.2.2.

Invoices for any goods or services not identified in this Agreement will be disallowed.

7.2.3.

Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount.

7.2.4.

Payment shall be made within thirty five calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Contractor exceed the percentage of project completion, as determined by the County.

7.2.5.

Payment of interest and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

7.2.6.

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the County for undisputed services provided by the subcontractor. The Contractor shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

7.3. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners between the parties or as constituting the Contractor as an employee of the County.

7.4. Successors, Subcontracting and Assignment

7.4.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the County in respect to all covenants, contracts and obligations contained in this Agreement.

7.4.2.

The Contractor shall not enter into any subcontract for performance of any services under this Agreement nor assign or transfer any interest in this Agreement without the prior written approval of the County and subject to such conditions and provisions as the County may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

7.5. Compliance With Legal Requirements

7.5.1.

The Contractor shall comply with all applicable federal, state and local laws and the rules and regulations of any regulatory body acting thereunder and all licenses, certifications and other requirements necessary for the execution and completion of the contract.

7.5.2.

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

7.6. Data Practices

7.6.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

7.6.2.

The Contractor designates Pete Lichtenheld, VP Operations, as its Responsible Authority, pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as the individual responsible for the collection, maintenance, use, and dissemination of any set of data on individuals, government data, or summary data pursuant to this Agreement.

7.6.3.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which County data is contained or which are used to access County data in the course of providing services under this Agreement. Access to County data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services are provided, at the end of the Project all County data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the County written verification that the data has been purged.

7.7. Security

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the County not more than 7 days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the County may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

The County retains the right to inspect and review the Contractor's operations for potential risks to County operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

All County data and intellectual property stored in the Contractor's system is the exclusive property of the County.

7.8. HIPAA Compliance

7.8.1.

The Contractor agrees to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA, public law #104-191) and its amendments. The Contractor also agrees to comply with the HIPAA Privacy requirements, the HIPAA Standards for Electronic Transactions, the HIPAA Security requirements, the HIPAA Enforcement Rule, the HIPAA Breach Notification requirements, and any other applicable HIPAA laws, standards and requirements now or as they become law, including any future guidance issued by the Secretary of Health and Human Services.

7.9. Indemnification and Limitation of Liability

The Contractor shall indemnify, hold harmless and defend the County, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors, and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCLUDING ITS INDEMNITY OBLIGATIONS THAT MAY ARISE FROM CONTRACTOR'S BREACH OF THIS AGREEMENT OR CONTRACTOR'S NEGLIGENCE OR MISCONDUCT, CONTRACTOR WILL NOT BE LIABLE TO COUNTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOST PROFITS) OR FOR LOST DATA SUSTAINED OR INCURRED IN CONNECTION WITH THE HARDWARE, SOFTWARE, SERVICES, OR THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, REGARDLESS OF THE FORM OF ACTION AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. IN ADDITION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CONTRACTOR'S TOTAL LIABILITY TO COUNTY FOR DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT INCLUDING WITHOUT LIMITATION WITH RESPECT TO THE HARDWARE, THE SOFTWARE, OR SERVICES RENDERED HEREUNDER WILL IN NO EVENT EXCEED FOUR MILLION DOLLARS (\$4,000,000). CONTRACTOR IS NOT LIABLE FOR DAMAGES CAUSED IN ANY PART BY COUNTY'S NEGLIGENCE OR INTENTIONAL ACTS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF DAMAGES, SO THE ABOVE EXCLUSIONS AND/OR LIMITATIONS MAY NOT APPLY TO COUNTY. THE PARTIES AGREE THAT THE LIABILITY LIMITATIONS SET FORTH IN THIS AGREEMENT ARE A REASONABLE ALLOCATION OF RISK AND LIABILITY CONSIDERING THE RESPECTIVE BENEFITS OBTAINED HEREUNDER. THE FOREGOING LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.

7.10. Contractor's Insurance

7.10.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

7.10.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the County contracting department evidencing such coverage to the County throughout the term of this Agreement.

7.10.3.

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability.

7.10.3.1.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent.

7.10.3.2.

Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured on a primary basis with respect to ongoing and completed operations of the Contractor, using ISO endorsement form CG 20 10 and 20 37 or the equivalent.

7.10.4.

Professional liability of no less than \$1,000,000 per claim and \$3,000,000 aggregate limit.

7.10.4.1.

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

7.10.4.2.

If the Contractor is providing services to clients, customers, patients, and inmates, and not directly to the County, then Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured; a separation of insureds endorsement shall be provided to the benefit of the County.

7.10.5.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

7.10.6.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts.

7.10.7.

If the Contractor is driving on behalf of the County as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

7.10.8.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Copies of policies shall be submitted to the County upon written request.

7.10.9.

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

7.10.10.

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the County.

7.10.11.

All Certificates of Insurance shall provide that the insurer give the County prior written notice of cancellation or non-renewal of the policy as required by the provisions of Minn. Stat. Ch. 60A, as applicable.

7.10.12.

Nothing in the Agreement shall constitute a waiver by the County of any statutory or common law immunities, defenses, limits, or exceptions on liability.

7.10.13.

A Crime and Fidelity Bond is required if the Contractor is handling money for the County or has fiduciary responsibilities. The required amount will be as set forth in the solicitation document.

7.11. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon written request, shall make available to the County, the State Auditor, or the County's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

7.12. Notices

All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

County:

Joe Mansky – 90 W. Plato Blvd., St. Paul, MN 55107

Contractor:

Pete Lichtenheld – 15500 Wells Port Drive, Austin, TX 78728

7.13. Non-Conforming Services

The acceptance by the County of any non-conforming goods/services under the terms of this Agreement or the foregoing by the County of any of the rights or remedies arising under the terms

of this Agreement shall not constitute a waiver of the County's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

7.14. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Contractor. The County may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

7.15. Conflict of Interest

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

7.16. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

7.17. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

7.18. Unavailability of Funding - Termination

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The County may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the County's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the County.

7.19. Termination

7.19.1.

The County may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of

debtors. The Contractor shall notify the County upon the commencement of such proceedings or other action.

7.19.2.

If the Contractor violates any material terms or conditions of this Agreement the County may, without prejudice to any right or remedy, give the Contractor, and its surety, if any, seven (7) calendar days written notice of its intent to terminate this Agreement, specifying the asserted breach. If the Contractor fails to cure the deficiency within the seven (7) day cure period, this Agreement shall terminate upon expiration of the cure period.

7.19.3.

The County may terminate this Agreement without cause upon giving at least thirty (30) calendar days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in compliance with the provisions of this Agreement, up to and including the effective date of termination.

7.20. Interpretation of Agreement; Venue

7.20.1.

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

7.20.2.

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

7.21. Warranty

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

7.22. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

7.23. Infringement

7.23.1.

Complementary to other "hold harmless" provisions included in this Agreement, the Contractor shall, without cost to the County, defend, indemnify, and hold the County, its officials, officers, and employees harmless against any and all claims, suits, liability, losses, judgments, and other expenses arising out of or related to any claim that the County's use or possession of the software, licenses, materials, reports, documents, data, or documentation obtained under the terms of this Agreement, violates or infringes upon any patents, copyrights, trademarks, trade secrets, or other proprietary rights or information, provided that the Contractor is promptly notified in writing of such claim. The Contractor will have the right to control the defense of any such claim, lawsuit, or other proceeding. The County will in no instance settle any such claim, lawsuit, or proceeding without the Contractor's prior written approval.

7.23.2.

If, as a result of any claim of infringement of rights, the Contractor or County is enjoined from using, marketing, or supporting any product or service provided under the agreement with the County (or if the Contractor comes to believe such injunction imminent), the Contractor shall either arrange for the County to continue using the software, licenses, materials, reports, documents, data, or documentation at no additional cost to the County, or propose an equivalent, subject to County approval. The acceptance of a proposed equivalent will be at the County's sole discretion. If no alternative is found acceptable to the County acting in good faith, the Contractor shall remove the software, licenses, materials, reports, documents, data, or documentation and refund any license fees and any other costs paid by the County in conjunction with the license or use of the hardware, materials, reports, documents, data, or documentation, less a reasonable offset for use and obsolescence. Contractor will not defend or indemnify County if any claim of infringement or misappropriation (a) results from County's design or alteration of any Contractor hardware or software; (b) results from use of any Contractor hardware or proprietary software in combination with any non-Contractor product, except to the extent, if any, that such use in combination is restricted to the Verity system designed by Contractor; (c) relates to sublicensed software or third party hardware alone; or (d) arises from County-specified customization work undertaken by Contractor or its designees in response to changes in Contractor proprietary software or sublicensed software that are made in response to County specifications. THIS SECTION STATES THE ENTIRE LIABILITY OF HART AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR INFRINGEMENT AND TRADE SECRET MISAPPROPRIATION.

7.24. Lobbying

Lobbying

For all contracts involving over \$150,000 in federal funds, the Contractor must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, and submit it as part of the proposal contents.

7.25. Debarment and Suspension

When Ramsey County is using federal funds for a purchase of \$25,000 or over, the federal government prohibits the County from purchasing from a party that has been debarred or suspended under federal debarment laws, executive orders, and regulations. In addition, Ramsey County has enacted Ordinance 2013-330 Ramsey County Debarment Ordinance that prohibits the County from contracting with contractors who have been debarred or suspended by the State of Minnesota and/or Ramsey County.

8. Entire Agreement

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the County and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

9. Special Contract Terms and Conditions

9.1.

Attached hereto as Exhibit D is Contractor's Proposal to the County's Technical and Functional Requirements for the Voting System purchased under this Agreement. The Contractor warrants that the Voting System purchased by the County will operate in accordance with the provisions of this Agreement and any Contractor documentation. The Contractor warrants that all services shall be provided in a professional manner and consistent with

industry standards. The Contractor warrants that its Voting System will not infringe on any United States trademark, patent or copyright or violate any third party trade secrets or other intellectual property rights. The Contractor warrants that the title to the Voting System conveyed to the County shall be good, and its transfer rightful; and the Voting System shall be delivered free from any security interest or other lien or encumbrance.

9.2 Attached as Exhibit F is the County's Request for Proposals.

RAMSEY COUNTY ELECTRONIC APPROVAL SUMMARY

Report ID: RMSC006
Run Date : 10/29/2015
Run Time : 12:50:09

Page No: 1

Document: 1719 **Version:**0.08 **Amendment:** 0
Setid: MODEL **Contract:** PRREL000002

<u>Approver Name</u>	<u>Title</u>	<u>Action</u>	<u>Action Date Time</u>
Mathis,Julie-Hart InterCivic	Supplier Signer	Approved	09/22/2015 14:04
Bach,Tara	Department Approval Review	Approved	09/22/2015 14:11
Kuefler,Chris	Dept Director Signer	Approved	09/22/2015 14:14
Nelson,Linda	FIN Analyst Approver	Approved	09/25/2015 07:19
Mogen,James	Attorney Signer	Approved	09/28/2015 16:10
Guthrie,Janet	County Board Clerk	Approved	10/28/2015 17:11
Baker,Dana	County Board Chair	Approved	10/29/2015 12:50

Board of Commissioners

Request for Board Action

Item Number: 2020-296

Meeting Date: 10/6/2020

Sponsor: Parks & Recreation

Title

Tamarack Nature Center Garden House Remodel Project

Recommendation

1. Approve the selection of and contract with Construction Results Corporation, 14170 23rd Avenue North, Plymouth, MN 55423 for Tamarack Nature Center Garden House Remodel Project construction services for the period of October 7, 2020 through October 6, 2021, in the amount of \$604,740.
2. Authorize the Chair and the Chief Clerk to execute the contract.
3. Authorize the County Manager to execute amendments to the agreement in accordance with the County's procurement policies and procedures, provided the amounts are within the limits of available funding.

Background

In 2007, Parks & Recreation adopted a strategic plan to build out the campus at Tamarack Nature Center through updated and/or added facilities, interpretive trails, programs, and exhibits, with an end goal of building the nature center's capacity to help people discover the value of nature through play, inquiry, exploration and service.

Since then, Parks & Recreation has completed several projects on the campus. In 2015, the main building was expanded to include a preschool with two dedicated classrooms, a staff office, and a conference room/parent gathering space. In 2016 the front entrance, reception, exhibit, and existing staff office spaces were remodeled, followed by another project to expand parking on site and provide better circulation and additional site amenities.

In 2019, Parks & Recreation hired Shelter Architecture for design services for remaining improvements, including exhibit installation, trail improvements, sugar shack relocation/construction, a new programming building, activity area shelters, overflow parking lot, a new maintenance facility, and a remodel of the existing garden house building. Construction of these improvements will be completed over the next several years as funding is available. Parks & Recreation has identified funding for the garden house remodel and issued a Request for Bids for this project in June. The project will consist of required code upgrades to the kitchen and mechanical spaces, and conversion from a summer season facility to a year-round facility. The project also includes energy upgrades, a public restroom, and cold storage addition to support the ongoing programming for the community.

Below is a competitive solicitation summary:

Request for Bids (RFB) Title	Tamarack Nature Center Garden House Remodel
RFB Release Date	June 10, 2020

RFB Response Date	July 09, 2020
Number of Contractors Notified	259
Number of RFB Responses Received	5
Contractor Recommended	Construction Results Corporation

Parks & Recreation recommends award of a contract to the lowest responsive and responsible bidder meeting the specifications, Construction Results Corporation, in the amount of \$604,740.

County Goals (Check those advanced by Action)☒ Well-being☐ Prosperity☐ Opportunity☒ Accountability**Racial Equity Impact**

As the COVID-19 pandemic has shown, food equity and access to fresh and healthy food is a key part of racial equity. The garden house at Tamarack is dedicated to teaching about healthy eating, as well as family and community gardening, and donates on average over 500 pounds of fresh fruits and vegetables each year to the local food shelf. Numerous educational programs will be served by this garden house remodel. For example, the Nature Center partners with Willow Lane, a White Bear Lake School District elementary school with a population comprised of 14% Latinx, 1% Native American, 16% Asian, 25% Black or African-American, and 10% two or more races. Every student in every grade level at Willow Lane visits Tamarack two or three times each school year. Otter Lake Elementary is right across the street from the Nature Center, and students attending that school are also frequent visitors to Tamarack. Schools from across the region visit the campus, and the garden house remodel project will facilitate programming for these students.

Additionally, the contractor for this project, Construction Results Corporation, is a certified Small Business Enterprise (SBE), which will help to advance County initiatives around contracting inclusion. Workforce inclusion goals for this project are 32% minority, 6% female and the contracting inclusion (SBE) goal for subcontractors is 20%.

Community Participation Level and Impact

This project is part of a larger development vision for Tamarack Nature Center established by the County in 2008. Since then, the project has been refined and improvements made to better support existing and future programming to better serve the community. Parks & Recreation has worked closely with White Bear Township to incorporate resident input received at Township meetings into project plans and to communicate project plans and schedules with the community and particularly the immediate neighbors. Additionally, this project will result in additional usable space for Tamarack Nature Center partners such as the White Bear Lake school district. Project plans were reviewed and recommended for approval by the citizen-led Parks & Recreation Commission as well.

☒ Inform☐ Consult☒ Involve☐ Collaborate☐ Empower**Fiscal Impact**

Funding for this project is available in the approved 2018 Comprehensive Capital Asset Preservation Plan (CCAMPP) Budget, in the amount of \$604,740.

County Manager Comments

County Board approval is required for construction contracts over \$175,000.

Last Previous Action

On December 12, 2017, the Ramsey County Board of Commissioners approved the 2018-2019 Capital Improvement Program Budget and the 2018 Capital Improvement Program Financing (Resolution B2017-492).

Attachments

1. Construction Contract

RAMSEY COUNTY PROCUREMENT CONTRACT

Parks and Recreation

PARKS&REC-Admin
2015 Van Dyke St
Maplewood MN 55109
USA

Supplier 0000138528
CONSTRUCTION RESULTS CORP
14170 - 23RD AVENUE NORTH
PLYMOUTH MN 55447
USA

Open

Dispatch via Print

Contract ID CC003048		Page 1 of 1	
Contract Dates 10/07/2020 to 10/06/2021	Currency USD	Rate Type CRRNT	Rate Date PO Date
Description: TNC GARDEN HOUSE REMODEL		Contract Maximum 604,740.00	

Tax Exempt? N Tax Exempt ID:

Contract Lines:

Line #	Supplier Item	Item Desc	UOM	Minimum Order Qty	Amt	Maximum / Open Qty	Amt
1		Remodeling Construction Services	EA	1.00	0.00	0.00	0.00

Contract Base Pricing 0.00000 EA SYSCHECK

PROVIDE ALL SUPPLIES, EQUIPMENT, MATERIALS AND LABOR REQUIRED TO PERFORM THE TAMARACK NATURE CENTER (TNC) GARDEN HOUSE REMODEL, IN ACCORDANCE WITH THE SOLICITATION RFB-PRK16323-KR (WHICH INCORPORATES THE PROJECT MANUAL AND PLANS) AND CONTRACTOR SOLICITATION RESPONSE DATED 7/9/2020.

CONTRACTOR CONTACT: MIKE LUURTSEMA
CONTRACTOR PHONE: 763-559-1100
CONTRACTOR EMAIL: MIKE.LUURTSEMA@CONSTRUCTIONRESULTS.COM

COUNTY CONTACT: GUS BLUMER
COUNTY PHONE: 651-363-3764
COUNTY EMAIL: BRETT.BLUMER@CO.RAMSEY.MN.US

REQ # PRK16323

The Ramsey County General Contract/Agreement Terms and Conditions is attached hereto and incorporated by reference. This Ramsey County Purchase Order or Procurement Contract, together with any documents incorporated herein by reference, constitutes the sole and entire agreement of the parties.

All shipments, shipping papers, invoices and correspondence must be identified with our Contract ID Number. Price increases will not be honored. Errors: In case of error in calculating or typing, the quoted unit price will be used as basis for correction of this order. Freight: Unless otherwise specified herein, prices are F.O.B. destination, with freight prepaid and included. Tax: Unless otherwise specified herein, prices are inclusive of applicable taxes.

Unauthorized

1. General Contract/Agreement Terms and Conditions

1.1.

The Contract resulting from this solicitation shall contain the following terms and conditions stated in this Section 3.

1.2. Definitions

AGREEMENT

The entire and integrated written document between the Owner and the Contractor concerning the Work. The Agreement contains all Contract Documents, as defined below, and supersedes prior representations, and agreements, whether written or oral, and sets forth the parties obligations, including but not limited to, the performance of the Work, the furnishing of labor and materials, and all other requirements in the Contract Documents.

AGGREGATE

Natural materials such as sand, gravel, crushed rock, or taconite tailings, and crushed concrete or salvaged bituminous mixtures, usually with a specified particle size, for use in base course construction, paving mixtures, and other specified applications.

BID

The offer or proposal of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

BIDDER

The individual or entity who submits a Bid to Owner.

CALENDAR DAY

Every day shown on the calendar, being 24 hours in length measured from midnight to the next midnight.

CONTRACTOR

The selected Bidder, an individual, firm, or corporation, contracting for and undertaking the completion of the prescribed Work; acting directly or through a duly authorized representative.

CONTRACT DOCUMENTS

Includes the Request for Bids (RFB), addenda, contractor bid, response forms, bonds, general terms and conditions, specifications, supplemental specifications, special provisions, plans, detail plans, Notice to Proceed, supplemental plans, change orders, supplemental agreements, field orders and shop plans.

CONTRACT PRICE

The total monetary amount to be paid to the Contractor for completion of the work in accordance with the Contract Documents as stated in the Agreement, including any approved Change Orders that have increased or decreased the original total monetary amount to be paid the Contractor.

CONTRACT TIME

The Substantial Completion date or number of calendar days allowed for substantial completion of the Work, including approved time extensions.

DETOUR

A road or system of roads, usually existing, designated as a temporary route by the Owner's Representative or Contractor to divert through traffic from a section of roadway being improved.

EASEMENT

A right acquired to use or control property for a designated purpose.

FIELD ORDER

A written order effecting change in the work not involving an adjustment in the contract price or an extension of the contract time, issued by the Owner's Representative to the Contractor during construction.

GUARANTEED ANALYSIS

A guarantee from a manufacturer, producer or supplier of a product that the product complies with the ingredients or specifications as indicated on the product label.

HOLIDAYS

The days of each year set aside by legal authority for public commemoration of special events, and on which no public business shall be transacted except as specifically provided in cases of necessity. Unless otherwise noted, holidays shall be as established in Min. Stat. Section 645.44.

INDUSTRY STANDARD

An acknowledged and acceptable measure of quantitative or qualitative value or an established procedure to be followed for a given operation within the given industry. This will generally be in the form of a written code, standard or specification by a creditable association.

MATERIALS

Any substances specified for use in the construction of the Project and its appurtenances.

PAY, BID OR CONTRACT ITEM

A specifically described unit of work for which a price is provided for in the Agreement.

NOTICE TO PROCEED

A written notice given to the Contractor by the Owner or Owner's Representative to proceed with the Work including, stating when applicable the date of the beginning of the Contract Time and the days until Substantial Completion is required or stating the date upon which Substantial Completion is to be achieved.

OWNER

The Owner of the Project is Ramsey County, and the term "Owner" shall mean the County.

OWNERS REPRESENTATIVE

An architect, designer, engineer, construction manager, or other person designated by the Owner to act on the Owner's behalf.

PLAN(S)

The plans, profiles, typical cross sections, and supplemental plans that show the locations, character, dimensions, and details of the work to be completed.

PROJECT

The Work to be performed under the Contract Documents.

PUNCH LIST

A notification to the contractor, in writing, of any particulars in which an inspection revealed that the Work is defective or incomplete.

SHOP DRAWINGS

All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

SPECIFICATIONS

All directions, provisions, and requirements defining the materials and performance of the Work.

SUBCONTRACTOR

The subcontractor is an individual, firm or corporation acting for or on behalf of the Contractor in performing any part of the Work. The subcontractor has a direct contract with the Contractor or another subcontractor and not the Owner.

SUBSTANTIAL COMPLETION

That date as certified by the Owner's Representative when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Agreement, so that the Project or specified part can be utilized for the purposes for which it is intended.

SUPPLEMENTAL AGREEMENT

A written agreement between the Owner and the Contractor, covering the performance of extra work or other alterations or adjustments to the Work or any of the Contract Documents as provided for within the general scope of the Agreement, but which extra work or Change Order constitutes a modification of the Agreement as originally executed and approved.

SUPPLIERS

Any person, supplier or organization who supplies materials or equipment for the Work, including those fabricated to a special design, but who does not perform labor at the Project site.

WORK

The furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the Project and the carrying out of the duties and obligations of the Contractor under the Contract Documents.

1.3. Order of Governance

1.3.1.

The Contract Documents comprise the entire agreement between the County and the Contractor and supersede prior representations, understandings or agreements, whether written or oral. The Contract Documents shall be construed in accordance with Minnesota law and shall be deemed to incorporate Laws and Regulations whether in force before or after submission of Bids, with which the Contractor is required to comply. It is the intent of the Contract Documents to describe a functionally complete Project (or portion thereof) to be constructed in accordance with the Contract Documents. Any Work, materials, or equipment, whether or not specifically called for, that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be furnished and performed by the Contractor without change in the Contract Price or Contract Time.

1.3.2.

To resolve conflicts between various portions of the Contract Documents that may arise, priority and order of precedence shall be given to the Contract Documents as follows:

1. Change Order,
2. Field Order,
3. Other Supplemental Agreement,
4. Supplemental Specification,
5. Supplemental Plan,
6. Project Manual,
7. Specifications,
8. Plans,
9. General Contract/Agreement Terms and Conditions,
10. Ramsey County Procurement Contract
11. Addenda to the RFB,
12. Request for Bids (RFB)

1.3.3.

If discrepancies exist between dimensions in the Contract documents, the following order of precedence applies:

1. Plan dimensions,
2. Calculated dimensions,
3. Scaled dimensions.

The Owner and the Contractor shall inform each other as to any discrepancy or defect they discover in the Contract Documents. Neither the Contractor nor the Owner shall take advantage of any discrepancy or defect in the Contract Documents. The Owner will review the identified discrepancy or defect to determine if a revision to the Contract Documents is necessary. The Owner will decide all issues concerning a discrepancy or defect.

1.4. Payment

1.4.1.

If this is a lump sum contract for supplies, equipment, materials and labor, or construction, invoices shall include any applicable State or Federal sales, excise or other tax. Do not itemize tax separately.

1.4.2.

If this is a contract for supplies, equipment or materials purchased for a golf course or solid waste hauling and recycling, the contractor shall itemize any applicable State or Federal sales, excise or other tax separately on the invoice.

1.4.3.

Each invoice must include a progress report on achievement of project SBE and Workforce goals. No payment will be made until the invoice and progress report have been approved by the County.

1.4.4.

Payments shall be made when the materials/services have been received in accordance with the provisions of the resulting contract.

1.5. Application for Payments

1.5.1.

The Contractor shall submit an invoice once a month.

1.5.2.

Invoices for any goods or services not identified in this Agreement will be disallowed.

1.5.3.

Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount. Payment for Materials stored will be conditioned on the following: The Contractor shall submit evidence to establish the Owner's title to such materials; acceptable provisions have been made for storage; the Contractor is responsible for all loss, theft, vandalism, storage and similar peril for the full value of the stored Material.

1.5.4.

Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Contractor exceed the percentage of project completion, as determined by the County.

1.5.5.

Payment of interest and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

1.5.6.

The Contractor shall pay any subcontractor within ten days of the Contractor's receipt of payment from the County for undisputed services provided by the subcontractor. The Contractor shall pay interest of 1 1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100.00 or more is \$10.00. For an unpaid balance of less than \$100.00, the Contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from the Contractor must be awarded its costs and disbursements, including attorney's fees, incurred in bringing the action.

1.5.7.

The Contractor shall pay the applicable prevailing wage rates at the time, during which, the work is being performed. Attachment B -- Statement of Compliance for Ramsey County Contractors and Attachment C -- Ramsey County Prevailing Wage Biweekly Payroll Report shall be completed and submitted per Ramsey County Prevailing Wage Ordinance No. 2013-329. See also Section 3.42.

1.5.8.

Payment for Materials stored will be conditioned on the following: The Contractor shall submit evidence to establish the Owner's title to such materials; acceptable provisions have been made for storage; the Contractor is responsible for all loss, theft, vandalism, storage and similar peril for the full value of the stored Material.

1.5.9.

The County and the Contractor must comply with Minn. Stat. § 15.72, Progress Payments on Public Contracts; Retainage. The County will reserve and release retainage in accordance with Minn. Stat. § 15.72, subd. 2. The County will reserve retainage of five percent from each progress payment on a public improvement contract. Consistent with Minn. Stat. §15.72, the Contractor shall pay all remaining retainage to its subcontractors no later than ten days after receiving payment of retainage from the County, unless there is a dispute about the work under a subcontract. If there is a dispute about the work under a subcontract, the Contractor must pay out retainage to any subcontractor whose work is

not involved in the dispute, and must provide a written statement detailing the amount and reason for the withholding to the affected subcontractor.

1.5.10.

When any of the above grounds for which payment is being withheld is removed, payment shall be made for the amount withheld.

1.5.11.

At the time of Project close out, the Contractor shall submit the following listed items and the final payment and the remaining retained percentage shall become due until the Contractor submits to the Owner each of the following:

1. Contractor IC-134;
2. Subcontractor(s) IC-134;
3. An affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or its property might in any way be responsible, have been paid or otherwise satisfied (the form of affidavit for use by the Contractor and all Subcontractors will be provided by the Owner to the Contractor prior to Project close-out);
4. Consent of surety, if any, to final payment;
5. Submission of two copies of operation and maintenance manuals with provided warranty documentation for products;
6. Two copies of as-built plans identifying modifications to original plans;
7. If required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising from the Agreement, to the extent and in such form as may be designated by the Owner;
8. Temporary Certificate of Occupancy, if applicable;
9. Final Certificate of Occupancy;
10. Substantial completion on Certificate (signed by the Architect/Engineer and the Contractor);
11. Completed punch list signed by the Contractor;
12. Storm water NPDES Notice of Termination (if applicable);
13. All Prevailing Wage Reports through the completion of the Work;
14. Final SBE report;
15. Final Diverse workforce report;
16. Copies of Project records and evidence that all required operation and maintenance training has been completed and all required training manuals, videos and similar or related documents. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Before final payment is made, the Contractor shall also make a satisfactory showing that it has complied with the provisions of Minn. Stat. § 290.92 requiring the withholding of state income tax from wages paid to the Contractor's employees for Work performed under the Agreement. Receipt by the Owner of a certificate of compliance from the Commissioner of Revenue will satisfy this requirement.

The Contractor has been advised that before the certificate can be issued Contractor must first place on file with the Commissioner of Revenue, an affidavit stating that Contractor has complied with the provisions of Minn. Stat. § 290.92. Unless the Contractor has presented an affidavit to the Owner's Representative showing that all claims against Contractor by reason of the Agreement have either been paid or satisfactorily secured,

final payment may be withheld or a sufficient amount may be retained there from to cover the unpaid and potential claims.

1.6. Payment for Uncorrected Work

If the Owner directs the Contractor not to correct Work that has been damaged or that has not been performed in accordance with the Contract Documents, an equitable deduction from the Contract Price shall be made by means of a change order to compensate the Owner for the uncorrected Work.

1.7. Payment for Rejected Work and Materials

The removal of Work and Materials rejected and the re-execution of acceptable Work by the Contractor shall be at the expense of the Contractor, and they shall pay the cost of replacing the Work of other contractors destroyed or damaged by the removal of the rejected Work or Materials and the subsequent replacement of acceptable Work.

1.8. Payment for Extra Work

Written notice of claims for payments for extra Work ("Extra Work") shall be given by the Contractor within three (3) days after receipt of a Field Order from the Owner's Representative to proceed with the Extra Work and the written notice shall be made before any Extra Work is commenced by the Contractor, except in emergency situations endangering life or property. No claim for payment for the Extra Work shall be valid unless the written claim is made in the manner required by this Section. The Contractor shall submit to the Owner itemized estimate sheets showing all labor and material and items of cost of the Extra Work. If the Owner approves proceeding, a Change Order for the Extra Work shall be issued specifying an extension of the Contract Time, if any, and one of the following methods of payments: unit prices or combinations of unit prices which formed the basis of the original Contract; a lump sum based on the Contractor's estimate, approved by the Owner's Representative and accepted by the Owner; or actual cost plus overhead and profit for force account work.

1.9. Payment for Samples, Testing of Materials, and Compaction Testing

1.9.1.

Unless stated otherwise in the Contract Documents, testing of samples and Materials furnished shall be arranged and paid for by the Owner, unless the tests fail, in which case they shall be paid for by the Contractor. Compaction testing will be conducted and paid for by the Owner, unless the tests fail, in which case the Contractor shall pay for them.

1.9.2.

The Contractor shall submit samples for review of kind, color, pattern, and texture for a check of these characteristics with other elements and for a comparison of these characteristics between submittal and the actual component as delivered and installed. The Contractor shall transmit samples that contain multiple, related components such as accessories together in one submittal package. The Contractor shall maintain sets of approved samples at Project site, available for quality-control comparisons throughout the course of construction activity. Sample sets may be used to determine final acceptance of construction associated with each set. The Contractor shall submit manufacturer's color charts consisting of units or sections of units showing the full range of colors, textures, and patterns available. The Contractor shall submit one full set(s) of available choices where color, pattern, texture, or similar characteristics are required to be selected from manufacturer's product line. The Owner's Representative shall return the submittal with options selected.

1.10. Release of Liens

If required by the Owner, the Contractor shall submit other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens arising from the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify it against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

1.11. Materials Furnished by the Contractor

1.11.1.

All Materials used in the Work shall be new unless otherwise provided for in the Contract Documents, shall meet the requirements of the specification be in conformance with samples provided, and shall not be incorporated into the Work until reviewed by the Owner's Representative.

1.11.2.

Unless otherwise specifically indicated in the Contract Documents, all Materials necessary for the proper execution of the work shall be furnished and paid for by the Contractor, whether temporary or not and whether incorporated into the Work or not.

1.11.3.

Manufactured articles, Materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditions as specified by the manufacturer.

1.11.4.

Materials, supplied or equipment to be incorporated into the Work shall not be purchased by the Contractor or the subcontractor subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

1.11.5.

The Owner may at its option pay for Materials that are purchased and stored offsite by the Contractor prior to their incorporation into the work.

1.12. Materials Furnished by Owner

Materials specifically indicated shall be furnished by the Owner. Before incorporating any of the Materials into the Work, the Contractor shall inspect the Materials so furnished by the Owner. If the Contractor discovers any latent defects in Material furnished by the Owner, they shall notify the Owner's Representative.

1.13. Storage of Materials

Materials shall be so stored by the Contractor as to insure the preservation of their quality and fitness for the Work. Stored Materials shall be located so as to facilitate prompt inspection. Private property shall not be used for storage purposes without the written permission of the owner or lessee thereof.

1.14. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners or joint ventures between the parties or as constituting the Contractor as an employee of the County.

1.15. Successors, Subcontracting and Assignment

1.15.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the County in respect to all covenants and obligations contained in this Agreement.

1.15.2.

After award, the Contractor shall not assign or transfer any interest in this Agreement without the prior written approval of the Owner and subject to such conditions and provisions as the County may deem necessary. The Contractor shall be responsible for the performance of all Subcontractors.

1.15.3.

The Contractor may utilize the services of specialty Subcontractors on those parts of the Work, which, under normal contracting practices, are performed, by specialty Subcontractors.

1.15.4.

If while completing the Project, additional Subcontractors are required, the Contractor shall notify the Owner in writing of the Subcontractor's name, contact information and the specific Work to be performed prior to the start of the work to be completed by the Subcontractor.

1.15.5.

The Contractor is responsible to the Owner for the acts and omissions of Contractor's Subcontractors, and of their direct and indirect employees, to the same extent as the Contractor is responsible for the acts and omissions of Contractor's employees.

1.15.6.

The Contract Documents shall not be construed as creating any contractual relations between the Owner or the Owner's Representative and any Subcontractor.

1.15.7.

The Contractor agrees to bind every Subcontractor and every Subcontractor agrees to be bound by the terms of the Contract Documents as far as applicable to the Subcontractor's Work.

1.15.8.

For convenience of reference and to facilitate the letting of contracts and subcontracts, the specifications are separated into titled sections. Such separations shall not, however, operate to make the Owner or Owner's Representative an arbitrator to establish limits to the contracts between the Contractor and Subcontractors.

1.15.9.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

1.16. Compliance With Legal Requirements

1.16.1.

The Contractor shall comply with all applicable federal, state and local laws and the rules and regulations of any regulatory body having jurisdiction with respect to the Work of the Contractor and all licenses, certifications and other requirements necessary for the execution and completion of the contract.

1.16.2.

Unless otherwise provided in the Agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the Work.

1.16.3.

If the Contractor observes that the specifications or drawings are at variance with any laws, ordinances, rules and regulations applicable to the Work, the Contractor shall give the Owner's Representative prompt written notice thereof, and any necessary changes shall be adjusted by an appropriate modification. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without prior written notice to Owner's Representative and the Owner's Representatives approval to proceed, the Contractor shall bear all costs arising therefrom; however, it shall not be the Contractor's primary responsibility to make certain that the Specifications and drawings are in accordance with such laws, ordinances, rules and regulations.

1.16.4.

The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons who may be affected thereby, all the Work and Materials or equipment to be incorporated therein, whether in storage on or off the site and other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

1.16.5.

The Contractor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. The Contractor will notify the Owner of adjacent utilities when prosecution of the Work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts either of them may liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

1.16.6.

The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Owner's Representative has issued a notice to Owner and Contractor that the Work is acceptable.

1.16.7.

The Contractor shall designate a responsible member of their organization at the site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by the Contractor to the Owner.

The Contractor shall at all times keep the chief of police, the fire chief, the city, county, state, and the Owner's Representative, informed of current traffic detours and patterns. If, at any time, the Contractor fails to adequately maintain any of the traffic control devices, the Owner's Representative may order the Contractor to install the devices, or have the County install, replace or maintain the devices and deduct the costs thereof from any monies due the Contractor. No direct compensation will be made for any flagmen required on the project under this Agreement. All necessary signing and barricading for lane closures and street closing shall be done in conformance with the "Minnesota Manual on Uniform Traffic Control Devices" and shall be the responsibility of the Contractor.

1.16.8.

In emergencies affecting the safety of persons or the Work or property at the site of the project or adjacent thereto, the Contractor, without special instruction or authorizations from the Owner's Representative or the Owner, shall act to prevent threatened damage, injury or loss. The Contractor shall give the Owner's Representative prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall there upon be issued covering the changes and deviations involved.

1.17. Permitting

Except for permits or fees specifically identified in the Contract Documents as responsibility of the Owner to pay, the Contractor shall secure and pay for necessary permits, approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures and for permanent changes in existing facilities. The Owner does not have information about nor is it in control of possible requirements which may be deemed necessary by permitting authorities in order for the Contractor to perform the Work. The Contractor shall plan and coordinate Work approach details with permitting officials to achieve any condition deemed necessary by the permitting authority. Additions to or changes in the Contractor's anticipated approach to the Work as the result of requirements specified by the permit authority are incidental and will not result in added cost to the Owner.

1.18. Data Practices

1.18.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

1.18.2.

The Contractor designates Mike Luurtsema as its Responsible Designee, pursuant to the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13.02 Subdivision 6, as the individual responsible for any set of data collected to be maintained by Contractor in the execution of this Agreement.

1.18.3.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which County data is contained or which are used to access County data in the course of providing services under this Agreement. Access to County data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services or construction are provided, at the end of the Project all County data will be purged from the Contractor's computers and storage

devices used for the Project and the Contractor shall give the County written verification that the data has been purged.

1.19. Security

1.19.1.

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

1.19.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the County not more than 7 days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the County may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

1.19.3.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

1.19.4.

The County retains the right to inspect and review the Contractor's operations for potential risks to County operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

1.19.5.

All County data and intellectual property stored in the Contractor's system is the exclusive property of the County.

1.20. Indemnification

The Contractor shall indemnify, hold harmless and defend the County, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the County, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its subcontractors, and their officers, agents or employees, in the execution,

performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

1.21. Contractor's Insurance

1.21.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

1.21.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the County contracting department evidencing such coverage to the County throughout the term of this Agreement.

1.21.3.

Commercial general liability of no less than \$1,000,000 per claim, \$5,000,000 per occurrence, \$5,000,000 general aggregate, \$5,000,000 products/completed operations total limit, \$5,000,000 personal injury and advertising liability.

1.21.3.1.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent. Coverage shall include contractual liability and XCU. Contractor will be required to provide proof of completed operations coverage for 3 years after substantial completion.

1.21.3.2.

The Contractor is required to add Ramsey County, its officials, employees, volunteers and agents as Additional Insured to the Contractor's Commercial General Liability, Auto Liability, Pollution and Umbrella policies with respect to liabilities caused in whole or part by Contractor's acts or omissions, or the acts or omissions of those acting on Contractor's behalf in the performance of the ongoing operations, services and completed operations of the Contractor under this Agreement. The coverage shall be primary and non-contributory.

1.21.4.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

1.21.5.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts. If provided to meet coverage requirements, the umbrella or excess liability policy must follow form of underlying coverages and be so noted on the required Certificate(s) of Insurance.

1.21.6.

If the Contractor is driving on behalf of the County as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

1.21.7.

Whenever work at issue under Contract involve potential pollution risk to the environment or losses caused by pollution conditions, including asbestos, that may arise from the operations of the Contractor or Contractor's subcontractors, Contractor shall include completed operations coverage for 3 years after substantial completion. Coverage shall apply to sudden and gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemical, liquids, or gases, natural gas, waste materials, or other irritants, contaminants or pollutants, including asbestos.

1.21.8.

The Contractor waives all rights against Ramsey County, its officials, employees, volunteers or agents for recovery of damages to the extent these damages are covered by the general liability, worker's compensation, and employers liability, automobile liability and umbrella liability insurance required of the Contractor under this Agreement.

1.21.9. Railroad Protective

Where the contract requires work to be performed within 50 feet of the right-of-way of a railroad, the Contractor shall provide such insurance as the railroad company may require. The cost for such insurance shall be included in the construction budget as an allowance and itemized separately without any mark up.

1.21.10.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement. Copies of policies shall be submitted to the County upon written request.

1.21.11.

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

1.21.12.

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the County.

1.21.13.

All Certificates of Insurance shall provide that the insurer give the County prior written notice of cancellation or non-renewal of the policy as required by the policy provisions of Minn. Stat. Ch. 60A, as applicable. Further, all Certificates of Insurance to evidence that insurer will provide at least ten (10) days written notice to County for cancellation due to non-payment of premium.

1.21.14. Property Insurance

1.21.14.1.

The County shall purchase and maintain, in a company or companies authorized to do business in the jurisdiction in which the Project is located, property insurance upon the Work to the fullest insurable value thereof on a replacement cost basis, subject to a deductible of \$100,000. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other

than the County has an insurable interest in the property required by this Section 2) to be insured, whichever is earlier. This insurance shall include interests of the County, the Contractor, and their respective contractors and subcontractors in the Work. The Contractor shall be responsible for the deductible under this policy, and all other costs not covered by property insurance up to the date of Substantial Completion, and all such costs shall be considered as a Cost of the Work.

1.21.14.2.

Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, rigging & hoisting, terrorism, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the services and expenses of the Contractor's Architect and other professionals required as a result of such insured loss. Coverage for other perils shall not be required unless otherwise provided in the Contract Documents.

1.21.14.3.

Unless otherwise provided, the County shall purchase and maintain such boiler and machinery insurance required by this Agreement or by law, which shall specifically cover such insured objects during installation and until final acceptance by the County. This insurance shall include interests of the County, the Contractor, the Contractor's contractors and subcontractors in the Work, and the Contractor's Architect and other design professionals. The County and the Contractor shall be named insureds.

1.21.14.4.

A loss insured under the County's property insurance shall be adjusted by the County as fiduciary and made payable to the County as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 2.6). The Contractor shall pay contractors their shares of insurance proceeds received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require contractors to make payment to their subcontractors in similar manner.

1.21.14.5.

Before an exposure to loss may occur, the County shall file with the Contractor a copy of a Certificate of Insurance for each policy that includes insurance coverages required by this Section 2). Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least thirty (30) business days' prior written notice has been given to the Contractor.

1.21.14.6.

The County as trustee shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing, within five (5) business days after such notification of the County's intent to exercise this power; if such objection be made, the parties shall enter into dispute resolution under procedures provided in this Agreement. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

1.21.14.7.

Partial occupancy or use prior to Substantial Completion shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The County and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall not, without mutual written consent, take any action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of coverage.

1.21.15. Waiver of Subrogation

The Contractor waives all rights against the County and the Architect and other design professionals, contractors, subcontractors, agents and employees, each of the other, for damages caused by fire or other perils to the extent covered by property or builders risk insurance applicable to the Work, except to such rights as they may have to proceeds of such insurance held by the Trustee. The Owner or Contractor as appropriate, shall require from contractors and subcontractors by appropriate agreements, written where legally required for validity, similar waivers each in favor of the parties enumerated in this Section. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly and whether or not the person or entity had an insurable interest in the property damaged.

1.21.16.

The County shall be responsible for purchasing and maintaining the County's usual liability insurance and/or self-insurance program.

1.21.17.

Nothing in this Agreement shall constitute a waiver by the County of any statutory or common law immunities, defenses, limits, or exceptions on liability.

1.22. Omission of Express Reference

Any Work that may reasonably be inferred from the Contract Documents, as being required to produce the intended result shall be supplied whether or not it is specifically called for. Work, Materials, or equipment described in words that so applied have a well-known technical or trade meaning shall be deemed to refer to such recognized standards.

1.23. Notice to Proceed

The date of commencement of the Work is the date set forth in the Notice to Proceed. If there is no Notice to Proceed, commencement shall be the effective date of the Agreement or such other date as may be established in the Agreement as the date the Work shall commence. Thereupon, the Contractor shall begin and shall prosecute the Work regularly and without interruption, unless otherwise directed in writing by the Owner, with such manpower and equipment as is necessary to complete the Work within the time stated in the Contract Documents.

1.24. Pre-Construction Conference

1.24.1.

Prior to the start of the Work, there will be a pre-construction conference arranged by the Owner's Representative. Representatives of effected government agencies, the Owner, the Contractor (including the project superintendent), the Contractor's Subcontractors, and utility companies shall be present at this meeting.

1.24.2.

At this meeting, the Contractor shall designate a competent Project superintendent. The Contractor shall also submit a list of phone numbers for the various Subcontractors, foremen and superintendents, including numbers to use in case of emergency.

1.24.3.

Also at this meeting, the Contractor shall submit in writing to the Owner's Representative for approval, a schedule of procedure indicating the order in which the Contractor proposes to perform the various stages of the Work, the dates on which the Contractor will start the several salient features thereof (including procurement of Materials and equipment), and the contemplated dates for completing the same. This schedule shall be in the form of a bar chart of a suitable scale to indicate appropriately the percentage of Work scheduled and completed at weekly intervals. The Contractor shall not deviate from the schedule after once approved without the written permission of the Owner's Representative. The Contractor shall also submit a schedule of payments that the Contractor anticipates it will earn during the course of the Work, based on the schedule.

1.25. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon request, shall make available to the County, the State Auditor, or the County's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

1.26. Notices

All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

County:

Gus Blumer, Parks & Recreation, 2015 Van Dyke St, Maplewood MN 55109

Contractor:

Mike Luurtsema, CONSTRUCTION RESULTS CORP, 14170 - 23RD AVENUE NORTH,
PLYMOUTH MN 55447

1.27. Non-Conforming Services

The acceptance by the County of any non-conforming goods/services under the terms of this Agreement or the foregoing by the County of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the County's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the County provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

1.28. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the contract by the Contractor. The County may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the County from the Contractor is determined.

1.29. Conflict of Interest

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the County. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

1.30. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

1.31. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

1.32. Unavailability of Funding - Termination

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The County may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the County's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the County.

1.33. Termination by the County

1.33.1.

The County may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the County upon the commencement of such proceedings or other action.

1.33.2.

The County may terminate this Agreement if the Contractor violates any material term or condition of this Agreement or does not fulfill in a timely and proper manner its obligations under this Agreement. In the event that the County exercises its right of termination under this Paragraph, it shall submit written notice to the Contractor and its surety, if any, specifying the reasons therefore. Termination shall be immediately effective upon the failure of the Contractor to cure the default within ten (10) business days of receipt of the notice of default. Upon termination, the Contractor shall take all actions necessary to discontinue further commitments of funds, and the County shall take

possession of the site and of all materials and finish the construction by whatever method the County may deem expedient.

1.33.3.

The County may terminate this Agreement without cause upon giving at least thirty (30) calendar days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in accordance with this Agreement up to and including the effective date of termination.

1.33.4.

This Agreement may be terminated by the County upon immediate written notice to the Contractor in the event that the Project is abandoned. If such termination occurs, the County shall pay the Contractor for services completed and for proven loss sustained upon materials, equipment, tools, construction equipment and machinery.

1.33.5.

Any termination by the County shall be without prejudice to the rights of the County to pursue other remedies against the Contractor.

1.34. Interpretation of Agreement; Venue

1.34.1.

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

1.34.2.

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

1.35. Protection of Persons and Property

1.35.1.

The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to, County employees and other persons who may be affected; the Contractor's work and materials and equipment which are under the care, custody and control of the Contractor or any of the Contractor's subcontractors; and other property at the project site or adjacent thereto.

1.35.2.

Unless otherwise directed by the County's Authorized Representative, the Contractor shall promptly remedy damage or loss to property caused in whole or in part by the Contractor, its employees, officers, or subcontractor(s), or anyone directly employed by any of them, or by anyone for whose acts any of them may be liable.

1.36. Warranty

1.36.1.

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

1.36.2.

The Contractor shall expressly warrant and guarantee the workmanship, equipment and materials furnished to be in compliance with the terms of the Contract Documents. The warranty shall extend for a one (1) year period from and after the date of Substantial Completion. If any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor shall correct the said condition promptly after receipt of written notice from the Owner. This includes the repairs of any damage to other parts of the property or Project resulting from such defects. Prior to commencement of the corrective Work, the Contractor shall provide insurance certificate policies, so as to protect the Owner, its Owner's Representative and their agents during the performance of the warranty Work. Acceptance by the Owner for the purpose of beginning the warranty period will be deemed to be when the Work is finally accepted by the Owner.

1.36.3.

The acceptance of any of the Work, or any part of it, shall not act to waive the liability on the part of the Contractor and the Contractor's surety.

1.36.4.

In the event that the Contractor should fail to make the repairs, adjustments or other Work that may be made necessary by defects in any of the Work, the Owner may do so and charge the Contractor the cost thereby incurred. The performance bond shall remain in full force and effect through the warranty/guaranty period. The Contractor's performance and payment bond delivered to the Owner pursuant to the Contract shall cover the Contractor's obligations provided for herein.

1.36.5.

Specific products used in the construction of the Work may include warranties specific to them and of a longer term than one (1) year. The Contractor shall provide written verification from the manufacturer of the product stating what the warranty covers and the time frame in which the warranty expires.

1.37. Infringement

1.37.1.

Complementary to other "hold harmless" provisions included in this Agreement, the Contractor shall, without cost to the County, defend, indemnify, and hold the County, its officials, officers, and employees harmless against any and all claims, suits, liability, losses, judgments, and other expenses arising out of or related to any claim that the County's use or possession of the software, licenses, materials, reports, documents, data, or documentation obtained under the terms of this Agreement, violates or infringes upon any patents, copyrights, trademarks, trade secrets, or other proprietary rights or information, provided that the Contractor is promptly notified in writing of such claim. The Contractor will have the right to control the defense of any such claim, lawsuit, or other proceeding. The County will in no instance settle any such claim, lawsuit, or proceeding without the Contractor's prior written approval.

1.37.2.

If, as a result of any claim of infringement of rights, the Contractor or County is enjoined from using, marketing, or supporting any product or service provided under the agreement with the County (or if the Contractor comes to believe such injunction imminent), the Contractor shall either arrange for the County to continue using the software, licenses, materials, reports, documents, data, or documentation at no additional cost to the County, or propose an equivalent, subject to County approval. The acceptance of a proposed equivalent will be at the County's sole discretion. If no alternative is found

acceptable to the County acting in good faith, the Contractor shall remove the software, licenses, materials, reports, documents, data, or documentation and refund any fees and any other costs paid by the County in conjunction with the use thereof.

1.38. Title - Risk of Loss

1.38.1.

Title to goods and/or all associated documentation shall pass to the County upon payment by the County for goods and/or associated documentation; or for construction projects, upon incorporation of the goods into the Project.

1.38.2.

The County shall be relieved from all risks of loss or damage to goods, and/or all documentation prior to the time title passes to the County as described above. The Contractor shall not be responsible for loss or damage to goods and/or documentation occasioned by negligence of the County or its employees.

1.39. Submittals

No portion of the work requiring submission of a shop drawing, drawing, manufacturer's literature, test data or other information, or a sample shall be commenced until the submittal has been approved by the County.

1.40. Clean Up

The Contractor shall at all times keep County premises free from accumulation of waste materials or rubbish caused by its operations.

1.41. Prevailing Wage (Construction and Labor)

1.41.1.

Contractors and all subcontractors of the Contractor shall conform to the labor laws of the State of Minnesota, [Ramsey County Prevailing Wage Ordinance No. 2013-329](#), and all other laws, ordinances, and legal requirements affecting the work in Ramsey County and Minnesota. The minimum wage rate per hour to be paid for each classification of work shall be the union wage rate in the locality of the project for those classifications over which unions have jurisdiction and the local prevailing rate for those classifications of work in the localities over which unions do not have jurisdiction.

The terms "prevailing wage", "minimum wage rate per hour", and "prevailing rate" as used in the contract, shall mean "prevailing wage rate" as defined in Minnesota Statutes §177.42.

Pursuant to Minnesota Statutes §§177.41 to 177.44 and corresponding Rules 5200.1000 to 5200.1120, all construction contracts funded in whole or in part by state funds are subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all Contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

1.41.2.

Pursuant to the Ramsey County Prevailing Wage Ordinance No. 2013-329, the Prevailing Wage Rate must be paid under any contract with Ramsey County or under a subcontract to that contract with Ramsey County with an anticipated Project completion cost or anticipated Services contract value of over \$25,000.

1.41.3.

Throughout the term of this Agreement, the Contractor shall submit Certified Payroll Records within 14 days of the end of a pay period and in accordance with the requirements of Ramsey County Prevailing Wage Ordinance No. 2013-329. Failure of the Contractor to submit the Certified Payroll Records in accordance with the Ordinance may result in criminal or civil enforcement by the County, including, but not limited to termination of the agreement for cause, withholding of payments, and assessment of liquidated damages.

1.41.4.

For the purposes of this section, prevailing wage rates and basic hourly rates in the same or more similar trade or occupation in the area, and prevailing hours of labor, shall be as contained in the Certified Prevailing Wages for *Commercial Construction* or the Certified Prevailing Wages for *Highway and Heavy Construction* established by the State of Minnesota, Department of Labor and Industry, as set forth in Attachment A. Prevailing wage rates shall mean the Total Rate, consisting of Basic Hourly Rates plus Fringe Benefits. State of Minnesota Prevailing Wage Rates, current as of the date of the project's bid release, shall apply for the entire term of the Agreement.

1.41.5.

The Contractor shall post the applicable prevailing wage rates, hourly basic rates, and prevailing hours of labor, at a conspicuous location accessible by workers at the location of the Work. The Contractor shall physically include the requirements of the article and the schedules set forth in Attachment A in applicable agreements and contracts with Subcontractors, agents, or other persons doing or contracting to do all or any part of the Work under the Agreement. Incorporation of prevailing wage rates by reference in such agreements and contracts is not acceptable.

1.41.6.

In the event of any violation of the requirement that the Contractor or Subcontractor pay not less than 1-1/2 times the basic hourly rate to each laborer or mechanic employed directly on the job site when such employee is permitted or required to work in excess of the prevailing hours of labor, the Contractor or Subcontractor shall be liable for the unpaid wages.

1.42. Debarment and Suspension

Ramsey County has enacted Ordinance 2013-330 [Ramsey County Debarment Ordinance](#) that prohibits the County from contracting with contractors who have been debarred or suspended by the State of Minnesota and/or Ramsey County.

1.43. Diverse Workforce Inclusion

For information and assistance in increasing the participation of women and minorities, contractors are encouraged to access the web sites below:

1. <http://www.JobConnectmn.com/>
2. <http://www.ConstructionHiringConnection.com/>

Job Connect and the Construction Hiring Connection provide a recruiting source for employers and contractors to post job openings and source diverse candidates.

Ramsey County's Job Connect links job seekers, employers, and workforce professionals together through our website, networking events and community outreach. The network includes over 10,000 subscribed job seekers ranging from entry-level to highly skilled and experienced professionals across a broad spectrum of industries.

Employers participate in the network by posting open jobs, meeting with workforce professionals and attending hiring events. Over 200 Twin Cities community agencies, all working with job seekers, participate in the network.

Ramsey County's Construction Hiring Connection (CHC) is an online and in-person network dedicated to the construction industry. The Construction Hiring Connection connects contractors and job seekers with employment opportunities, community resources and skills training related to the construction industry. Construction Hiring Connection is a tool for contractors to help meet diversity hiring goals. Over 1000 construction workers, representing all trades, ranging from newly graduated to journey level, are subscribed to the Construction Hiring Connection.

Additional assistance is available through jobconnectmn@ramseycounty.us or call 651-266-6042.

1.44. Diverse Workforce Initiative

The County has a goal of continuing to increase participation of qualified minorities and women in each County construction project. The County has established a goal of 6% % women and 32% % minority goal for site workforce utilization for the Project.

1.45. Utilization of Certified Vendors

The County has adopted the Principles for Inclusiveness in Contracting Program ("IICP") in order to increase the participation of small businesses ("SBEs") in the County's purchasing activities. The SBE utilization goal for this Project is: 20%.

1.46. Project Labor Agreement

The County has determined that it is in the best interests of the County, as an owner of real property, to have a Project Labor Agreement in place. The Contractor will enter into, and have in effect for the duration of this project, a Project Labor Agreement with the Saint Paul Building and Construction Trades Council. Failure of the awarded vendor to enter into and maintain such an agreement for the duration of the project may be grounds for termination by the County for cause. Upon execution, the Project Labor Agreement shall be incorporated into and become a part of the contract for this Project.

1.47. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

1.48. Performance and Payment Bonds

1.48.1.

The Contractor shall furnish a Performance and Payment bond, both meeting the following conditions:

1.48.1.1.

Issued by a bonding company licensed to do business in Minnesota.

1.48.1.2.

On the current list of Companies Holding Certificates of Authority as acceptable Sureties on Federal Bonds and as acceptable reinsuring companies as published in Circular 570 (Amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

1.48.1.3.

All bonds signed by an agent must be accompanied by a certified copy of the authority to act.

1.48.1.4.

Duly executed, notarized and updated Acknowledgment of both the Principal and Surety and the Surety's Power of Attorney must be attached to each of the two required bonds.

1.48.1.5.

Bond amounts shall not exceed the single bond limit for the Contractor's bonding company as set forth in the Federal Register current as of the bid date.

1.48.1.6.

Checks are not accepted in lieu of a Bond.

1.48.2.

The bonds shall each be in the amount of 100% of the Contract Price. The term "contract", as used herein, shall include the original agreement plus all subsequent change orders and/or amendments. The Contract Price to which the principal is bound shall be the amount as reflected by the terms of the contract.

1.48.3.

The bonds shall cover the faithful performance of the Contract and the payments of all obligations arising thereunder. No work shall begin until the County has received the proper bonds specified under this clause.

1.48.4.

Bonds shall indemnify the County for any loss sustained by the County on account of or by reason of the acts of the Contractor or the acts of anyone else directly or indirectly employed by the Contractor in the performance of the Work for the Project.

1.49. Schedule Progress

The Owner shall, at its discretion, hold bi-weekly meetings to monitor progress and coordinate activities at the location of the Work. The Contractor and its Subcontractors shall attend these meetings, provide any required documentation of progress and anticipated construction scheduling as required by the Owner. These meetings will be held at a time and location determined by the Owner.

If, in the opinion of the County, the Contractor falls behind the progress schedule, or if it appears that the Contractor will not achieve Substantial Completion in accordance with the agreed upon schedule, the Contractor shall take any and all steps necessary to improve the progress to assure Substantial Completion in accordance with the schedule, at no additional cost to the County.

The County may require the Contractor to submit for approval and at no additional cost to the County, such supplementary progress schedules as may be deemed necessary to demonstrate the manner in which the approved progress schedule or date of Substantial Completion will be regained.

Failure of the Contractor to comply with the requirements of this subparagraph shall be grounds for determination that the Contractor is not performing the Work with such diligence as will ensure completion within the time specified in the Agreement between the County and the Contractor. Upon such determination, the County may terminate the Contractor's right to

proceed with the Work, or any separable part thereof, in accordance with other applicable provisions of the Contract or may obtain the services required to bring the Work into compliance with the schedule at the Contractor's cost.

1.50. Changes in Work

Changes in the Work may be accomplished after execution of the contract by Change Order, Construction Change Directive, or order for a minor change in the Work, subject to the limitations stated in the Contract Documents. A change in the Work that affects the Contract Price or schedule may be made only by Change Order.

A Change Order shall be based upon agreement between the County and the Contractor; a Construction Change Directive may be issued by the County without the agreement of the Contractor; an order for a minor change in the Work may be issued by the Contractor.

Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

Change Orders

A Change Order is a written instrument prepared by the Contractor and signed by the County and the Contractor stating their agreement upon all of the following:

- a change in the Work;
- the amount of the adjustment, if any, in the Contract Price; and
- the extent of the adjustment, if any, in the Project Schedule.

No work consistent with the changes in the Change Order shall commence until the Change Order has been reduced to writing and signed by both parties.

Construction Change Directives

A Construction Change Directive is a written order prepared and signed by the County, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Price, schedule, or both.

1.51. Minor Changes in the Work

The Contractor shall have authority to make minor changes in the Construction Documents and construction consistent with the intent of the Contract Documents when such minor changes do not involve adjustment in the Contract Price or extension of the Project schedule. The Contractor shall promptly inform the County, in writing, of minor changes in the Construction Documents and construction.

1.52. Oral Agreements

Verbal orders and suggestions as to the performance of the work may be given from time to time by the Owner's Representative, or by other representatives of the municipality, county, state or other government or regulatory agency through the Owner's Representative. When in the opinion of the Contractor, such verbal orders or suggestions entitles the Contractor to a change in Contract Price or Contract Time or both, the Contractor must request a Change Order from the Owner. No verbal order or suggestion of any representative or employee of the municipality, county, state or other governmental or regulatory agency, or of any other person, shall be construed as authorizing any claims on the part of the Contractor for extra compensation for labor, material or other items pertaining to such work, or for damages or any other expenses incurred because of the Contractor's compliance therewith. The Contract Price and Contract Time may only be changed by Change Order.

1.53. Maintenance of Record Drawings at Site and Shop Drawings

The Contractor shall maintain at the Project site for the County one record copy of the drawings, specifications, product data, samples, shop drawings, addenda, Change Orders and other modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be delivered to the County upon completion of construction as a record of the Work as constructed prior to final payment.

1.54. Final Inspection

1.54.1.

Upon written notice from the Contractor that the Project is completed, the Owner's Representative together with the Owner, and other appropriate parties, will make a preliminary inspection with the Contractor present. Upon completion of this preliminary inspection, the Owner's Representative will notify the Contractor, in writing, of any particulars in which this inspection reveals that the work is defective or incomplete. This list shall be referred to as a "Punch List".

1.54.2.

Upon receiving the Punch List from the Owner's Representative, the Contractor shall immediately undertake the actions required to remedy defects and complete the Project to satisfaction of the Owner and the Owner's Representative.

1.54.3.

When the Contractor has corrected or completed the items as listed in the Owner's Representative's written notice, the Contractor shall inform the Owner's Representative, in writing, that the required Work has been completed. Upon receipt of this notice, the Owner's Representative, in the presence of the Contractor, Owner, and other appropriate parties shall make their final inspection of the Work.

1.54.4.

If the Owner's Representative finds all Work satisfactory at the time of this second inspection, the Contractor will be allowed to make application for final payment in accordance with the provisions of the Contract Documents. If the Owner's Representative still finds dissatisfaction with the same Work, the Owner's Representative shall inform the Contractor of the deficiencies and will deny the Contractor's request for final payment, until such time as the Contractor has satisfactorily completed the required Work. The cost of the third or subsequent inspections shall be borne by the Contractor.

1.55. Final Payment

After the final inspection and acceptance by the Owner of all Work under the Contract, the Contractor shall prepare an application for final payment and submit it to the County for approval. The total amount of final payment due the Contractor under this Agreement shall consist of the total Contract Price as adjusted in accordance with approved Change Orders, less all previous payments to the Contractor and subject to withholding of any amount due the County as liquidated damages, as provided in Section N/A below, or as otherwise due under the Contract Documents or applicable law. The Application for final payment shall be accompanied by the following:

1. final lien releases and claim waivers (in a form acceptable to the County) by the Contractor and all persons performing Work and supplying material or services to the Contractor;

2. an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the County might in any way be responsible, have been paid or otherwise satisfied;
3. consent of surety, if any, to final payment;
4. two copies of Operation & Maintenance Manuals with provided warranty documentation for products and two copies of as-built plans identifying modifications to original plans;
5. if required by the County, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Agreement, to the extent and in such form as may be designated by the County;
6. the Certificate of Project Completion form (provided by the County);
7. a copy of the completed State of Minnesota Form IC-134, signed by the State Commissioner of Taxation, for the Contractor and its subcontractors; and
8. a complete report describing efforts and outcomes of those efforts towards achievement of Project SBE and labor utilization goals; and sustainability goals, if applicable.

1.56. Warning Signs and Barricades

The Contractor shall at all times so conduct their Work as to insure the least possible obstruction to traffic and inconvenience to the general public and the residents in the vicinity of the Work, and to insure the protection of persons and property. No road or street shall be closed to the public except with the permission of the proper governmental authority. The Contractor shall warn effected motorists, pedestrians or residents of any construction practices or situations which could be dangerous, cause personal injuries or property damage. Fire hydrants on or adjacent to the work shall be kept accessible to fire-fighting equipment at all times. Temporary provisions shall be made by the Contractor to insure the use of sidewalks and the proper functioning of all gutters, sewer inlets, drainage ditches and irrigation ditches, which shall not be obstructed. The Owner's Representative reserves the right to require immediate backfilling of any street area which the Owner's Representative deems it required for safe traffic circulation within or adjacent to the Work.

1.57. Crossing Utilities

1.57.1.

Where the prosecution of the Work results in the crossing of highways, railroads, streets or utilities under the jurisdiction of state, county, city or other public or private entities, the Contractor shall secure written permission from the proper authority to cross said highway, railroad, street or utility before further prosecuting the Work. A copy of the written document granting permission shall be filed with the Owner and Owner's Representative before any work is done. The Contractor shall be required to obtain a written release from the applicable authority upon completion of the Work. A copy of this written release shall be filed with the Owner and Owner's Representative before final acceptance of the work is granted.

1.57.2.

The Contractor shall protect that which is to remain and shall conduct all installation operations in a manner that will not damage or jeopardize the surrounding plant life designated to remain. Equipment operating around existing trees shall use extreme caution to prevent damage to roots, trunks, and branches. The Contractor shall verify the

location and elevation of existing utilities in the area of work. Any damage to utilities, trees or other existing-to-remain items shall be repaired at the Contractor's expense.

1.58. Sanitary Provisions

The Contractor shall provide and maintain such sanitary facilities for the use of Contractor's employees and its Subcontractors as may be necessary to comply with the laws, rules or regulations of the federal, state, and local governments, or agencies or departments thereof.

1.59. Preservation of Historical Objects

1.59.1.

Where historical objects of potential architectural, archeological or paleontological nature are discovered within the areas on which the Contractor's operations are in progress, the Contractor shall restrict or suspend their operations in the immediate area of the discovery as may be necessary to preserve the discovered objects until the Owner has made arrangements for their disposition or has recorded the desired data relative thereto.

1.59.2.

The Contractor shall immediately notify the Owner of any historical objects discovered as the Work is being performed, and shall aid in the preservation and salvage program decided upon, as may be requested or ordered by the Owner. Work requiring a change to the Contract Price shall not be performed without the written authorization of the Owner.

1.59.3.

The Owner shall have the right to restrict or suspend the Contractor's operations in the immediate area where historical objects are discovered for a period not to exceed 72 hours, without claim being made by the Contractor for any damages they might suffer as a result thereof.

1.60. Lands by Owner

The Owner shall provide access to the lands shown on the drawings upon which the Work is to be performed. The Owner shall also provide or obtain the right-of-way for access to the land. Any delay by the Owner in furnishing access to the land shall be deemed proper cause for consideration of adjustment in the time of completion, but not in the Contract Price.

1.61. Land by Contractor

Any additional land and access thereto not shown on the drawings that may be required for temporary construction facilities or for storage of Materials shall be provided by the Contractor with no liability to the Owner. The Contractor shall confine its apparatus, storage of Materials, and operation of its workers to those areas described in the drawings and specifications; and such additional areas that may be provided at the contractor's expense. The Contractor shall notify the Owner's Representative in writing of those lands provided at the contractor's expense. The Contractor shall not disturb any areas outside of the construction limits including wetlands, woodlands and previously restored work areas.

1.62. Private Property

The Contractor shall not enter upon private property for any purpose without obtaining permission from the owner, and shall be responsible for the preservation of all public property, trees, monuments, etc., along and adjacent to the street and/or right-of-way, and shall use every precaution necessary to prevent damage or injury thereto. The Contractor shall protect carefully from disturbance or damage all monuments and property marks until the Owner's Representative has witnessed or otherwise referenced their location and shall not remove them until directed.

1.63. Shop Drawings

1.63.1.

The Contractor shall provide Shop Drawings as may be necessary for the prosecution of the Work as required by the Contract Documents. The Owner's Representative shall promptly review all shop drawings. The Owner's Representative's review of any Shop Drawing shall not release the Contractor from responsibility for deviations from the Contract Documents. The discovery of any Shop Drawing which substantially deviates from the requirements of the Contract Documents shall be evidenced by a Change Order or corrected and resubmitted by the Contractor, at the Owner's Representative's discretion.

1.63.2.

When submitting for the Owner's Representative's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Document.

1.63.3.

Portions of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or submission has been reviewed by the Owner's Representative. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Owner's Representative.

1.63.4.

Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data. Fully illustrate requirements in the Contract Documents. Include the following information, as applicable:

- a. Dimensions.
- b. Identification of products.
- c. Fabrication and installation Plans.
- d. Roughing-in and setting diagrams.
- e. Wiring diagrams showing field-installed wiring, including power, signal, and control wiring.
- f. Shop work manufacturing instructions.
- g. Templates and patterns.
- h. Schedules.
- i. Notation of coordination requirements.
- j. Notation of dimensions established by field measurement.
- k. Seal and signature of professional engineer if specified.
- l. Wiring Diagrams: Differentiate between manufacturer-installed and field-installed wiring.

1.63.5.

Submit opaque (bond) and electronic copies of each submittal. The Owner's Representative will return one copy.

1.64. Substitutions After Award of Agreement

Whenever a Material, article or piece of equipment is identified in the Contract Documents by reference to brand name or catalog number, it shall be understood that this reference is for the purpose of defining the performance or other salient requirements and that other products of equivalent capacities, quality and function shall be considered. The Contractor may recommend the substitution of a Material, article, or piece of equipment of equivalent substance and function for those referred to in the Contract Documents by reference to brand name or catalog number, and if, in the opinion of the Owner's Representative, such Material, article, or piece of equipment is of equivalent substance and function to that specified, the Owner's Representative may approve its substitution and use by the Contractor. Where applicable the Owner's Representative will only approve substitutions after the Contractor has received approval from the municipality, county, state or other regulatory agencies with jurisdiction. The Owner's Representative will not lobby for the approval of the substituted Material. Any cost differential shall be deductible from the Contract Price and the Contract Documents shall be appropriately modified by Change Order. The Contractor warrants that if substitutes are approved, no major changes in the function or general design of the Project will result. Incidental changes or extra component parts required to accommodate the substitute will be made by the Contractor without a change in the Contract Price or Contract Time. Requests for review of substitute items will not be accepted by the Owner's Representative from anyone other than the Contractor. The Contractor shall reimburse the Owner for the charges incurred by the Owner's Representative to evaluate each proposed substitution.

1.65. Submittals

1.65.1.

No portion of the Work requiring submission of a Shop Drawing, drawing, manufacturer's literature, test data or other information, or a sample shall be commenced until the submittal has been approved by the Owner.

1.65.2.

The Contractor shall furnish one copy of complete product data for every manufactured item of equipment and all components to be used to perform the Work, including specific performance data, material description, rating, capacity, working pressure, material gauge or thickness, brand name, catalog number and general type. This data shall be compiled by the Contractor and reviewed by the Owner's Representative before any of the equipment is ordered. All data shall be indexed according to specification section and paragraph for easy reference. After review, this data shall become a part of the Contract, and may not be deviated from except upon the written approval of the Owner's Representative.

1.65.3.

Product data for equipment reviewed by the Owner's Representative does not in any case supersede the Contract Documents. The review of the Owner's Representative shall not relieve the Contractor from responsibility for deviations from drawings or specifications unless the Contractor has in writing called the Owner's Representative's attention to such deviations at the time of furnishing said data. Nor shall such review relieve the Contractor from responsibility for errors of any sort in the items furnished. The Contractor shall check the work described by the product data with the Contract.

1.65.4.

It shall be the responsibility of the Contractor to insure that items to be furnished fit the space available. The Contractor shall take necessary field measurements to ascertain space requirements, including those for connections and shall order such sizes and shapes of equipment that the final installation shall suit the true intent and meaning of the Drawings and Specifications.

1.65.5.

Where equipment requiring different arrangement of connections from those shown is approved, it shall be the responsibility of the Contractor to install the equipment so as to allow for proper operation and to be in harmony with the intent of the drawings and specifications, and to make all changes in the Work required by the different arrangement of connections.

1.66. Intent of Plans and Specifications

The intent of the Plans and Specifications is that the Contractor shall furnish all labor and materials, equipment and transportation necessary for the proper execution and completion of the Work unless specifically noted otherwise. The Plans and Specifications are complementary, and what is required by one shall be as binding as if required by all. Performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results. The Contractor shall do all the Work shown on the Plans and described in the Specifications and all incidental work considered necessary to complete the Project in an acceptable manner, and to fully complete the Work, ready for use, occupancy and operation by the Owner.

1.67. Discrepancies

Any ambiguity or discrepancy drawings and Specifications, no matter how seemingly insignificant to the Contractor, shall be brought immediately to the attention of the Owner's Representative for clarification. The Owner's Representative shall promptly correct such ambiguity or discrepancy in writing. If the Contractor fails to bring any ambiguity or discrepancy in writing of which it was or should have been aware, the Contractor shall assume the risk of loss because of, and shall be allowed no claim for the misinterpretation of, the drawings and Specifications contrary to the intended interpretation of the Owner's Representative. Work done by the Contractor after the Contractor's discovery of such discrepancies, inconsistencies or ambiguities shall be done at the Contractor's risk.

1.68. Additional Instructions and Detail Drawings

The Contractor may be furnished additional instructions and detail drawings by the Owner's Representative, as necessary, to carry out the Work required by the Contract Documents. The additional drawings and instruction thus supplied will become a part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional drawings and instructions.

Board of Commissioners

Request for Board Action

Item Number: 2020-269

Meeting Date: 10/6/2020

Sponsor: Property Management

Title

Fifth Amendment to the Lease Agreement with the State of Minnesota Explore Minnesota Tourism for Metro Square Building.

Recommendation

1. Approve the Fifth Amendment to the Lease Agreement in Metro Square Building, 121 East Seventh Place, Saint Paul, Minnesota, 55101, with the State of Minnesota Explore Minnesota Tourism, 121 East Seventh Place, Saint Paul, Minnesota, 55101, effective October 9, 2020.
2. Authorize the Chair and Chief Clerk to execute the lease amendment.

Background

On October 6, 2009, the County Board approved the purchase of the Metro Square Building ("Building") and on October 9, 2009, the County closed on the purchase. As part of the purchase, a number of leases with the State of Minnesota for space in the Building were assigned to the County, including Amendment No. 1 to Lease No. 11357 with the State of Minnesota Explore Minnesota Tourism ("Explore Minnesota") for approximately 8,813 usable square feet of office and 4,344 warehouse space in Metro Square Building ("Lease").

Since that time, four additional amendments have been approved that have included remodeling the space as well as extending the Lease Agreement through July 31, 2027. This Fifth Amendment seeks to reduce the amount of space rented from 14,148 to 9,804, eliminating the warehouse space, effective October 9, 2020.

After October 9, 2020, the warehouse space will serve storage needs of County departments to avoid the need for leasing off-site storage space.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☐ Opportunity ☒ Accountability

Racial Equity Impact

There is no known impact on racial equity from this lease amendment or the future use of this space for County purposes.

Community Participation Level and Impact

The information about this action is available through the County Board documentation that is published on the County's website:

<https://www.ramseycounty.us/your-government/leadership/board-commissioners/board-meetings-information>.

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

The reduction in lease revenue of approximately \$62,000 annually may be offset by cost savings realized by the County in reducing its need for leased space elsewhere.

County Manager Comments

County Board approval is required for all real estate transactions.

Last Previous Action

On March 7, 2017, the Ramsey County Board of Commissioners approved the Third Amendment to the of Office and Warehouse Space Lease Agreement with the State of Minnesota Explore Minnesota Tourism for Metro Square Building and delegated authority to approve the Fourth Amendment to the County Manager (Resolution B2017-054).

Attachments

1. Lease Amendment.

STATE OF MINNESOTA

AMENDMENT OF LEASE

Amendment No. 5

Lease No. 11357

THIS AMENDMENT No. 5 to Lease No. 11357 is made by and between Ramsey County, a political subdivision of the State of Minnesota, hereinafter referred to as Landlord, and the State of Minnesota, Department of Administration, hereinafter referred to as Tenant, acting for the benefit of the Explore Minnesota Tourism.

WHEREAS, Landlord and Tenant entered into Lease No. 11357 dated November 1, 2004, and previously amended by an Amendment of Lease No. 1 dated November 28, 2007, an Amendment of Lease No. 2 dated November 1, 2012, an Amendment of Lease No. 3 dated March 7, 2017 and an Amendment of Lease No. 4 dated June 28, 2018 (as so amended, hereinafter referred to as the "Lease"), involving the lease of approximately fourteen thousand one hundred forty eight (14,148) usable square feet of space ("Leased Premises"), in the Metro Square Building ("Building"), located at 121 East 7th Place, allocated as follows:

SUITE #	USE	SQ. FT.
360	OFFICE	9,804
153	WAREHOUSE	4,344
TOTAL		14,148

WHEREAS, the parties hereto deem certain amendments, additional terms and conditions mutually beneficial for the effective continuation of the Lease;

NOW THEREFORE, Landlord and Tenant agree to substitution and/or addition of the following terms and conditions to be incorporated into Lease No. 11357 on the date set forth herein.

1. **SQUARE FOOTAGE REDUCTION** Effective October 9, 2020 and continuing through July 31, 2027, Landlord and Tenant accept the reduction of four thousand three hundred forty four (4,344) usable square feet of space known as Suite No. 153, resulting in a new total of nine thousand eight hundred four (9,804) usable square feet of space known as Suite No. 360.

2. **RENT**

- 2.1 Effective October 9, 2020 and continuing through July 31, 2027, Tenant shall pay Landlord rent according to the rent schedule set forth below:

AMENDMENT PERIOD		SQUARE FEET	RATE PER SQ. FT.	MONTHLY RENT	AMENDMENT PERIOD RENT
10/01/20	- 10/08/20				
	Suite 360 Office	9,804	\$ 19.69	\$ 4,151.44	\$ 4,151.44
	Suite 153 Warehouse	4,344	\$ 14.46	\$ 1,350.88	\$ 1,350.88
	Total	14,148		\$ 5,502.32	\$ 5,502.32
10/09/20	- 10/31/20				
	Suite 360 Office	9,804	\$ 19.69	\$ 11,935.39	\$ 11,935.39
11/01/20	- 07/31/21				
	Suite 360 Office	9,804	\$ 19.69	\$ 16,086.73	\$ 144,780.57
08/01/21	- 07/31/22				
	Suite 360 Office	9,804	\$ 20.08	\$ 16,405.36	\$ 196,864.32
08/01/22	- 07/31/23				
	Suite 360 Office	9,804	\$ 20.48	\$ 16,732.16	\$ 200,785.92
08/01/23	- 07/31/24				
	Suite 360 Office	9,804	\$ 20.89	\$ 17,067.13	\$ 204,805.56
08/01/24	- 07/31/25				
	Suite 360 Office	9,804	\$ 21.31	\$ 17,410.27	\$ 208,923.24
08/01/25	- 07/31/26				
	Suite 360 Office	9,804	\$ 21.73	\$ 17,753.41	\$ 213,040.92
08/01/26	- 07/31/27				
	Suite 360 Office	9,804	\$ 22.17	\$ 18,112.89	\$ 217,354.68
				Total	\$ 1,403,992.92

- 2.2 Financed Tenant Improvement Allowance Tenant shall continue to pay Landlord for the Financed Tenant Improvement Allowance, in the amount of \$2,885.27 per month, with the final July 2027 payment in the amount of \$2,885.86, in addition to the Rent set forth in Section 2.1 above.

- 2.3 Rent Billing Address Landlord shall mail or personally deliver all original bills and statements to Tenant at the following address:

Explore Minnesota Tourism
Metro Square Building, Suite 360
121 East 7th Place
St Paul MN 55101

- 2.4 Rent Payment Address Tenant shall mail or deliver each monthly rent payment at the end of the applicable calendar month to Landlord at the following address:

Ramsey County Property Management
121 Seventh PI E #2200
St Paul MN 55101

3. **EXECUTION IN COUNTERPARTS** This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts of this Amendment taken together shall constitute but one and the same Amendment. Delivery of an executed counterpart of this Amendment by facsimile or email or a PDF file shall be equally as effective as delivery of an original executed counterpart of this Amendment.
4. Except as modified by the provisions of this Amendment, said Lease is ratified and confirmed as originally written. All capitalized terms used but not defined herein shall have the meanings assigned to them as set forth in the Lease, unless otherwise stated.

NO ATTACHMENTS

IN WITNESS WHEREOF, the parties hereto set their hands on the date(s) indicated below intending to be bound thereby.

LANDLORD:

RAMSEY COUNTY, a political subdivision of the State of Minnesota

Landlord certifies that the appropriate person(s) execute this Amendment to the Lease on behalf of Landlord as required by applicable articles, bylaws, resolutions or ordinances.

By _____

Title _____

Date _____

APPROVAL RECOMMENDED:

By _____

Title Jean Krueger
Director

Date _____

COUNTY ATTORNEY:

By _____

Title _____

Date _____

TENANT:

STATE OF MINNESOTA
DEPARTMENT OF ADMINISTRATION
COMMISSIONER

By _____
Real Estate and Construction Services

Date _____

APPROVED:

STATE OF MINNESOTA
EXPLORE MINNESOTA TOURISM

By _____

Title John Edman
Director

Date _____

STATE ENCUMBRANCE VERIFICATION

Individual signing certifies that funds are encumbered as required by Minn. Stat. §16A.15 and §16C.05.

By _____

Date _____

SWIFT P.O. _____

Contract No. _____

Board of Commissioners

Request for Board Action

Item Number: 2020-404

Meeting Date: 10/6/2020

Sponsor: Property Management

Title

Amended and Restated Lease Agreement with Regions Hospital and Gillette Children's Specialty Healthcare.

Recommendation

1. Approve the Amended and Restated Lease Agreement with Regions Hospital, 640 Jackson Street, Saint Paul, MN 55101, and Gillette Children's Specialty Healthcare, 640 Jackson Street, Saint Paul, MN 55101 for the period of January 1, 2020 through December 31, 2040.
2. Authorize the Chair and Chief Clerk to execute the agreement.

Background

In 1872, Ramsey County and the City of Saint Paul established on land owned by the County a hospital to serve the residents of Ramsey County and surrounding areas. The hospital's operations were overseen by a variety of legislatively created bodies. A nonprofit subsidiary of Ramsey Health Care, Inc. Saint Paul-Ramsey Medical Center, Inc. operated the hospital as the Saint Paul Ramsey Medical Center. In 1992, the County leased the land and buildings to Ramsey Health Care, Inc., which later assigned the lease to Saint Paul-Ramsey Medical Center, Inc. (the Original Lease). In 1997, Saint Paul-Ramsey Medical Center, Inc. changed its name and the name of the hospital to Regions Hospital. The Original Lease has been amended several times. Most recently, in 2018, the Amended and Restated Lease Agreement extended the term to 2100 and consolidated terms from several amendments into one agreement.

Ramsey County consented to Regions Hospital lease with Gillette Children's Specialty Healthcare (the Gillette Lease) for a portion of the complex under an Amended and Restated Hospital Lease effective January 1, 2002. The Gillette Lease has been amended five times, most recently in 2018.

Regions Hospital and Gillette Children's Specialty Healthcare have been negotiating since early 2020 and recently requested our approval for the Gillette Lease and amendments be combined into a new unified lease agreement for clarity and to update features of the agreement to be consistent with current conditions. Amending and restating the lease as of January 1, 2020 accomplishes the following:

1. Concisely states the current premises and associated square footage.
2. Clarifies access, use and payment for the west parking ramp.
3. Establishes the term of the Gillette lease through December 31, 2040 and revises the terms for two successive fifteen-year renewal options.
4. Adjusts the rental rate and operating expenses to reflect current conditions and provide greater transparency related to capital improvement costs.

The Amended and Restated Lease combines several interrelated documents into one coherent document that details the relationship between Regions as landlord and Gillette Children's Specialty Healthcare as tenant. The Amended and Restated Lease does not change the relationships of the County with the other parties, and does not create additional obligations for Ramsey County. Under the terms of the Original Lease, Ramsey County consent for the Amended and Restated Lease is requested.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☐ Opportunity ☒ Accountability

Racial Equity Impact

There is no known racial equity impact from approving the Amended and Restated Lease.

Community Participation Level and Impact

There was no community participation and there is no known impact on the community related to this real estate transaction. The information about this action is available through the County board documentation that is published on the county's website: <https://www.ramseycounty.us/>.

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

The Amended and Restated Lease does not incur additional costs for the County.

County Manager Comments

County Board approval is required for all real estate transactions. Amending and restating the agreement consolidates the terms from several amendments for clarity and to update the terms to be consistent with current conditions.

Last Previous Action

On April 3, 2018, the County Board approved the Amended and Restated Lease Agreement between the County and Regions Hospital to extend the term to December 31, 2100 (B2018-123).

Attachments

1. Amended and Restated Lease Agreement.

AMENDED AND RESTATED LEASE AGREEMENT

THIS AGREEMENT, is made effective as of the 1st day of January, 2020, (“**Effective Date**”) by and between RAMSEY COUNTY, a political subdivision of the State of Minnesota (“**Ramsey**”); REGIONS HOSPITAL, a Minnesota non-profit corporation (“**Regions**” or “**Landlord**”); and GILLETTE CHILDREN’S SPECIALTY HEALTHCARE, a Minnesota non-profit corporation (“**Gillette**” or “**Tenant**”).

RECITALS

WHEREAS, under a Lease Agreement dated January 1, 1992, as amended and restated in that certain Amended and Restated Lease dated April 3, 2018 (the “**Prime Lease**”), Ramsey has leased to Landlord the land and certain pre-existing buildings and improvements constituting portions of the Regions Hospital and Gillette Children’s Specialty Healthcare complex in St. Paul, Minnesota on property generally described as being bounded by University Avenue, Jackson Street and the I-35 frontage road (“**Hospital Complex**”); and

WHEREAS, Landlord and Tenant have each made numerous capital improvements, betterments and additions to their respective areas of the Hospital Complex; and

WHEREAS, Landlord’s rights under the Prime Lease are subject to the rights of Tenant under the former “Blue Tile” and “Brown Tile” leases, which have been amended, extended and restated under that certain Amended and Restated Hospital Lease, effective as of January 1, 2002, by and among the Landlord and Tenant (the “**Main Gillette Lease**”), which Main Gillette Lease the County has consented to; and

WHEREAS, the terms of agreement and premises and parking rights covered by the Main Gillette Lease have been amended by various agreements and amendments between the parties, specifically:

- the Space Lease effective January 1, 2005, which added certain space in the Regions Hospital radial commonly known as “4E” to Gillette’s Leased Premises; and
- the First Amendment effective July 1, 2007, which terminated the January 1, 2005 Space Lease and addressed planned expansion and other adjustments to the Leased Premises; and
- the Second Amendment effective October 28, 2010, which added certain temporary space known as “7 West” to the Leased Premises; and
- the Third Amendment effective October 1, 2013, which added certain temporary space known as “7 South” to the Leased Premises; and
- the Fourth Amendment effective November 1, 2016, which amended Gillette’s parking rights to spaces in the West Ramp; and
- the Fifth Amendment effective May 2, 2018 which extended the lease term on the 7 South and 7 West temporary premises,

(Collectively, the “**Amendments**”)

WHEREAS, the parties desire to restate the lease arrangements between them, in this Amended and Restated Lease Agreement (hereinafter the “**Lease**”) for clarity.

NOW THEREFORE, for good and valuable consideration, the receipt of which each party hereby acknowledges, the parties hereby agree as follows:

I. LEASED HOSPITAL PREMISES

- a. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the following Premises depicted on the attached Exhibit A (including reasonable rights of access and egress thereto), which, in the aggregate, comprises **164,833 total rentable square feet** plus appurtenant use rights:

<u>Location</u>	<u>Rentable Square Feet</u>
Building 1, Floor 3	5,309
Building 1, Floor 4	42,413
Building 5, Floor 1	1,552
Building 5, Floor 4	35,021
<u>Building 5, Floor 5</u>	<u>1,000</u>
Total “Area A”	85,295
Building 1, Floor 3	23,350
Building 1, Floor 4	14,167
Building 1, Radial 7W	7,326
<u>Building 5, Floor 3</u>	<u>28,257</u>
Total “Area B”	73,100
Building 1, Radial 7S	6,438 (the “7 South Premises”)

- b. Tenant shall have the exclusive right to use and possess Area A and Area B during the Term (as defined below) and the 7 South Premises during the 7 South Premises Term (as defined below). The term “Premises” includes all improvements and fixtures constructed on or incorporated into the Premises. The portion of the Premises described above as Area A, Area B, and 7 South Premises shall be collectively known as the Tenant’s “**Premises**” or the “**Leased Premises**”.
- c. Tenant shall have a non-exclusive right and license for itself and its agents, employees, doctors, patients, visitors, and invitees to use all common areas and common facilities of the Hospital Complex that are depicted on the attached Exhibit B (“**Common Areas**”) as the same are established and may be reconfigured from time to time by Landlord, for their respective intended purposes in common with Landlord and its tenants, subtenants, vendors, licensees, concessionaires, agents, employees, doctors, patients, visitors and invitees (the “**Common Area Rights**”). Common areas do not include those areas and/or facilities used exclusively by the Landlord for the operation of its business. Whether or not shown on the applicable

exhibit attached hereto, Common Areas also include, but are not limited to: reception areas, gift shops, entrances (when open to the public and employees) directory listings, sidewalks, elevators, hallways, service corridors, disposals and incinerators, truckways, loading docks, delivery areas, landscaped areas, public restrooms and comfort stations, cafeterias, roadways, streets, driveways, access and interior roads and parking areas and facilities, including the West Ramp.

- d. The parties have agreed that as of the Effective Date, the facilities in the Hospital Complex are comprised of approximately 845,831 rentable square feet, and the interior Common Areas in the Hospital Complex comprises approximately 84,627 square feet, for a “common area factor” of 10.00%.
- e. Tenant and Landlord may, by mutual agreement, at any time make minor adjustments or revisions to the size, rentable area or other calculations regarding the Premises, the Hospital Complex, the Common Areas, common area percentages, Common Area Rights, the West Parking Ramp, West Parking Rights, or other related descriptions, measures or use rights, without the need for signature by Ramsey, except when such a revision specifically relates to or affects a provision of this Lease relative to which Ramsey has an obligation to the State of Minnesota arising out of the State’s conveyance of Gillette-related facilities to Ramsey, or the State’s 2001 grant to Ramsey for Gillette’s benefit. An addendum or amendment to the Lease covering such a topic, signed by Tenant and Landlord, will be sufficient to effect and memorialize any such allowed adjustment or revision.

II. WEST PARKING RAMP

- a. **Rights.** Tenant shall have the right and license for itself and its designees to use that part of Levels D and E of the West parking ramp (“**West Ramp**”) of the Hospital Complex consisting of 169 stalls, more or less (the “**West Parking Rights**”) in which Tenant shall have the sole right of control in accordance with the terms of this Lease, subject to reasonable rules and regulations promulgated from time to time by the Landlord applicable to the entire West Ramp and adjacent areas. Notwithstanding the foregoing, if at any time any part of the West Ramp must be temporarily closed down or restricted for environmental, engineering, safety, building or fire code, insurance, maintenance and repair, re-equipping or similar reasons (collectively, “**Safety and Legal Reasons**”), Tenant’s West Parking Rights may, after reasonable notice to and consultation with Tenant, be equitably diminished or temporarily suspended by Landlord during such closure or restriction period pursuant and subject to the applicable provisions of this Lease. However, in the event Landlord diminishes or temporarily suspends Tenant’s West Parking Rights as stated in this section due to Safety and Legal Reasons that are within Landlord’s control, Landlord agrees to take reasonable action to mitigate the impact to Tenant, including but not limited to: providing Tenant with access to as many spaces needed which Landlord may have in other parking ramps based on available capacity in such ramps at the relevant time.

- b. **Management.** Landlord shall manage, or cause to be managed, the West Ramp where Tenant has its West Parking Rights. Landlord's managerial rights and responsibilities with respect to the West Ramp shall be those normally associated with the management of a parking ramp, including but not limited to, computer entry and monitoring of control cards issued, collecting short term (hourly or daily) parking revenues and exit polling of users, paying expenses, providing utilities, hiring and overseeing personnel or contracting for operation of the parking ramp, maintenance and repair, janitorial services, obtaining supplies, and safety of parking ramp personnel, parkers, and personal property. Each party shall issue control cards, establish rates, and bill and collect from its own monthly parkers. Tenant shall have the right to establish parking policy in its West Parking Rights areas regarding permitted parkers, the mix of parking available to doctors, staff and patients, monthly, or short term parking rates, and similar matters, which matters shall not be considered within the management prerogative of Landlord, and Tenant shall have the right, in its sole discretion and at its expense, to discount short term ramp rates to or subsidize one or more classes of parkers in their respective areas of the West Ramp. Each month, unless otherwise agreed to by Landlord and Tenant, Landlord shall provide Tenant with an accounting of any short term parking ramp revenue in the West Ramp for the month divided between Landlord and Tenant together with payment of Tenant's share of such short term parking ramp revenue indicated by the accounting. Tenant shall have the right to review and approve the accounting work materials.
- c. **Payment.** Each month, unless otherwise agreed by Landlord and Tenant, Landlord shall submit to Tenant for payment a statement of Tenant's share of the West Ramp's maintenance and operating costs (as provided in the applicable section of the shared services agreement between Landlord and Tenant) for the month. The method of presentation and formulas for determining Tenant's allocable charges for parking ramp operations and maintenance will be determined according to the shared services agreement then in place between the parties. To the extent that Tenant is responsible for paying costs due under this section of the Lease which are also due under the shared services agreement then in place between Landlord and Tenant for the same services or materials, Tenant shall not be liable for duplicate payments.
- d. If Tenant's West Parking Rights are temporarily denied or diminished for Safety or Legal Reasons, and if such actions in Tenant's reasonable judgment create a parking shortage for Tenant, Landlord and Tenant agree that, until Tenant's West Parking Rights are fully restored, Landlord will, as its first priority, to the extent possible and taking into account the simultaneous parking needs of the Landlord, designate parking spaces elsewhere on the Hospital Complex grounds sufficient to meet the reasonably expected patient and/or visitor requirements of the Tenant (but not to exceed, in the aggregate, the West Parking Rights). And, Landlord will, as its second priority, cooperate with Tenant to seek sufficient parking near, or served by shuttle bus to, the Hospital Complex to handle Tenant's and Landlord's reasonably expected employee and overflow parking needs (including residual

patient and/or visitor parking which cannot be accommodated on the Hospital Complex). Landlord and Tenant agree to negotiate in good faith an equitable cost-sharing arrangement between them to cover the out-of-pocket costs of any such alternate parking arrangements, taking into account all relevant facts and circumstances giving rise to the temporary closure, and if the circumstances warrant, Landlord may charge an equitable rent to Tenant for parking spaces designated for use by Tenant's patients and/or visitors under the preceding sentence.

- e. If Tenant occupies an additional 8 spaces in excess of its allotted spaces under the West Parking Rights for more than 5 days within a 2-week period, Landlord will notify Tenant of such overuse. If following receipt of notice, such overuse continues for an additional period of 5 days within a second 2-week period, Landlord will charge Tenant, and Tenant will pay Landlord, \$50.00 per excess space for that overuse. If Tenant thereafter occupies an additional 8 spaces in excess of its allotted spaces under the West Parking Rights for more than 5 days within a third 2-week period, Landlord will again notify Tenant of such overuse ("**Final Notice**"). If following receipt of the Final Notice, such overuse continues, Landlord will charge Tenant, and Tenant will pay Landlord, \$75.00 per excess space for each overuse during any period 5 days within a 2-week period during the remainder of the Term.
- f. Tenant may elect to reduce the number of allotted spaces, including reducing to 0, by providing Landlord not less than thirty (30) days prior written notice. Upon receipt of such notice, Landlord shall ensure that Tenant's monthly invoices for maintenance and operating costs as described in section c above are adjusted accordingly.

III. TERM AND TERMINATION

- a. **Term.** Except as otherwise provided herein, the term of this Lease is for a period of twenty-one (21) years commencing on **January 1, 2020** and expiring on **December 31, 2040** (the "**Term**"). The term of the lease for the 7 South Premises (the "**7 South Premises Term**") will commence on January 1, 2020 and expire on September 30, 2020, at which time the 7 South Premises shall revert back to Landlord.
- b. **Option to Renew.** Tenant shall have two successive options (each, a "**Renewal Option**") to renew the Lease with respect to all, or any part of the Premises other than the 7 South Premises. The first Renewal Option shall be for an additional term (the "**First Renewal Term**") of fifteen (15) years, commencing on the date immediately after the expiration date of the Term, and the second Renewal Option shall be for an additional term (the "**Second Renewal Term**") of fifteen (15) years, commencing on the date immediately after the expiration of the First Renewal Term, each Renewal Option subject to the following terms and conditions:

- i. Tenant gives Landlord not less than 12 months' prior written notice of its election to exercise the Renewal Option; and
- ii. Tenant is not in default under this Lease beyond any applicable cure period either on the date Tenant exercises the Renewal Option or on the commencement of the First Renewal Term or Second Renewal Term, unless waived in writing by Landlord.
- iii. The Premises subject to renewal for the Second Renewal Term shall be only those parts of the Premises actually renewed during the First Renewal Term.

If Tenant exercises the Renewal Option, all terms and conditions of the Lease will be applicable to the First and Second Renewal Term, except that: (1) The Rent for the applicable Renewal Term will be the Market Rate as determined by the process described in Exhibit C, or the rate last payable by Tenant during the preceding Term, whichever is greater; (2) If the remaining term of the Prime Lease between Ramsey and Landlord at the time Tenant exercises the Renewal Option is less than ten (10) years, then the applicable Renewal Term shall be the remaining term of the Prime Lease; and (3) Tenant agrees to accept the Premises in an as-is condition on the commencement date of the applicable Renewal Term and Tenant will not be entitled to any credit or allowance from Landlord for the improvement thereof.

If Tenant exercises the Renewal Option, Landlord and Tenant will execute and deliver an amendment to this Lease reflecting the lease of the Premises by Landlord to Tenant for the applicable Renewal Term on the terms provided above.

- c. **Early Termination.** Notwithstanding any provision herein to the contrary, this Lease shall be terminable prior to the end of the Term: (1) by Tenant, if it permanently vacates the Premises (or with respect to any part of parts of Premises if it permanently vacates such part of parts) and gives at least 180 days prior written notice to Landlord of such permanent vacation; (2) by Landlord or Tenant, if Tenant ceases to provide services as specified in Section VI; or (3) upon mutual agreement of the parties. In the event this Lease so terminates in whole or in part, Regions shall be entitled to the possession of that part of the Premises to which the termination applies, and all obligations of the parties to one another as they related to that part of the Premises to which termination applies, except for rentals and obligations accrued prior to the effective date of termination, shall cease. Provided, however, that if the Lease is terminated by Tenant, Tenant will remain obligated for continued payment of the heating, cooling and electricity portion of the operating expense charge for the terminated space for so long as the space remains unoccupied, or three (3) years, whichever is less.

IV. BASE RENT

- a. Base Rent shall be comprised of two elements. The first element shall relate to the rentable square footage of the Premises. The second element of base rent shall relate to Tenants Common Area Rights.

- b. Tenant shall pay to Landlord as base rent for the Premises, in advance on the first day of each calendar month of the Term of this Lease, without deduction, offset, prior notice or demand, in lawful money of the United States, the amounts set forth herein, beginning January 1, 2020.
- c. Annual base rent for calendar year 2020 shall be \$1,299,413.64, payable in equal monthly installments of \$108,284.47. Base rent payable in 2020 is based on the rates below (and \$0.00 per square foot on areas built out by Tenant or its predecessors), less any outstanding credits, plus \$8.78 for Tenant's allocable share of additional square feet representing the Common Areas, calculated pursuant to the following formula:

BASE RENT – 2020

Rentable Square Feet (Area A and Area B) = 158,395 rsf @ \$19.53 per rsf
(less credits and prepayments)

7 South Premises = 6,438 rsf @ \$22.00 per rsf
(less credits and prepayments)

Tenant's Common Area Rights = 16,483rsf @ \$8.78 per rsf
(less credits and prepayments)

- d. The parties acknowledge that Tenant has prepaid rent for the portion of the Premises known commonly as 4E, which contains approximately 8,670 rentable square feet.
- e. Effective on January 1, 2021 and on each January 1 thereafter, the per square foot base rent rate shall be increased or decreased annually by a percentage equal to the percentage change during the last calendar year (calculated by measuring the percentage change during the preceding year of August 1 through July 31) of the Consumer Price Index, All Urban Consumers, U.S. or whatever reasonably comparable, substitute index may then be in use (hereinafter, in either case, the "CPI-U").

V. OPERATING EXPENSES (Including Real Estate Taxes and Assessments)

- a. For such period as this Lease is in effect, Landlord does hereby agree to furnish to Tenant in the Premises such heating, ventilating, air conditioning, hot and cold water, sewer and electricity, medical waste disposal, sprinklers, smoke detectors and fire alarms, as may be reasonably required from time to time by Tenant for the Premises, subject to shortages and interruptions beyond the Landlord's control.
- b. In addition to the Base Rent described above, Tenant agrees to pay to Landlord on the first day of each month in advance during the Term of this Lease, an "**Operating Expense Charge**" that represents Tenant's allocable share of all Landlord incurred

expenses relating to operating, maintaining and making necessary replacement in the Hospital Complex, including but not limited to the costs for heating and cooling, utilities, insurance, security, repairs, maintenance, services, equipment, supplies, common area costs, annual installments of special assessments (of which Landlord has provided Tenant with advanced written notice), the allocated portion of capital improvements used to increase energy efficiency or help reduce operating costs, and management costs and costs of wages of personnel who supply services, and all other costs related to operating and maintaining the Leased Premises, to the extent such services are provided by the Landlord to or for the benefit of the Leased Premises and/or the Common Areas. Landlord shall provide Tenant with itemized documentation detailing these expenses, including detail regarding any reduction in utility costs resulting from alterations or improvements related to energy efficiency if such detail is available to Landlord. Landlord may increase, decrease, and otherwise alter and reconfigure the location, size layout, functions, and appearance of the Common Areas of the Hospital Complex from time to time in its sole and reasonable discretion, taking into account the operations of Tenant and providing Tenant with notice thereof.

- c. The square footage figure to be used for determining Tenant's allocable share of the Operating Expense Charge under this section is the full rentable square footage occupied as, and allocated to, the Leased Premises plus the additional square footage allocated to Common Area Rights as the same may be adjusted from time to time (a total of 181,316 sq ft as of the effective date of this Lease).
- d. The parties agree that for the period from January 1 through December 31, 2020, the Operating Expense Charge is based on a cost of \$8.78 per square foot of the Premises, less any prepayments or credits, for a total annual operating expense charge of \$1,591,954.48, payable in monthly installments of \$132,662.87.
- e. The parties agree to re-negotiate the Operating Expense Charge as required based on actual cost figures every five years, for application starting in 2022. In all other Lease years, the Operating Expense Charge will be increased or decreased annually, by a percentage equal to the percentage change during the last calendar year (calculated by measuring the percentage change during the preceding year of August 1 through July 31) of the CPI-U. The Operating Expense Charge may be further increased or decreased annually by mutual written agreement of the parties, to reflect documented changes in energy costs for that portion of the Operating Expense Charge which both parties agree are energy related, and further adjusted to account for increased or decreased allocations of rentable square feet. Landlord will notify Tenant at least ninety (90) days in advance of capital improvements as referenced in subsection (b) when the portion allocable to Tenant is expected to exceed \$100,000 over the life of the recovery period. When the capital improvement may have an impact upon the operations of Tenant, regardless of the amount of the expected portion allocable to Tenant, Landlord will ensure Tenant has sufficient notice of and input in the planning, design, construction and/or other work as related to such capital improvement.

VI. USE

- a. The Premises may be used and occupied by the Tenant for any lawful purpose related to medical or surgical treatment of children or adults including, but not limited to: inpatient care; outpatient care; inpatient and outpatient surgery; respite care; ancillary services; research; education; conference rooms and meeting areas; business office functions; and any other functions that support the Tenant's operations.
- b. Unless otherwise agreed by the Landlord, Tenant may only transfer the leasehold interest created by this Lease to a successor nonprofit corporation into which Tenant may merge, a nonprofit corporation of which Tenant may become a subsidiary, or a nonprofit corporation that may be formed by Tenant and another nonprofit corporation, or Ramsey.
- c. Tenant shall not use the Premises or permit anything to be done in or about the Premises which will in any way conflict with any law, statute, zoning restriction, ordinance or governmental rule or regulation or requirements of duly constituted public authorities now in force or which may hereafter be enacted or promulgated. Tenant shall at its sole cost and expense promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters, the Joint Commission, or other similar or successor bodies now or hereafter constituted relating to or affecting the condition, use or occupancy of the Premises or West Parking Rights area. Landlord shall, at its sole cost and expense promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force and with the requirements of any board of fire underwriters, the Joint Commission, or other similar or successor bodies now or hereafter constituted relating to or affecting the condition, use or occupancy of the Hospital Complex except for Tenant's obligations hereunder.
- d. Ramsey and Landlord acknowledge that portions of the Premises and certain aspects of Tenant's operations therein are unique, and that Tenant's patients have few other options for treatment if the unique aspects of Tenant's operations in the Premises were interrupted for any unnecessary reason. Accordingly, Landlord agrees that, for so long as Tenant is not in default hereunder, it will operate and maintain the portion of the Hospital Complex which directly supports or provides access to the Premises in a manner in which minimizes, to the extent practical under the circumstances, any interruption of Tenant's unique operations in the Premises. And, Ramsey agrees that, for so long as Tenant is not in default hereunder, it will take no action that would interrupt Tenant's ability to continue to operate effectively on the Premises.

VII. MAINTENANCE, REPAIRS, ALTERATIONS AND ADDITIONS

- a. **Tenant Maintenance Responsibilities.** During the Term of this Lease, Tenant shall keep in good order, condition and repair, the Premises and every part thereof under lease, both structural and nonstructural elements, and Tenant's signs located throughout Regions Hospital, ordinary wear and tear and damage which could be covered by standard fire and extended coverage insurance whether or not caused by the negligence of Tenant, its employees or agents, excepted. Tenant's obligation with respect to structural repairs shall be limited to interior structural repairs within the Leased Premises and shall not include structural elements of the roof, outside walls, building skin, basement and foundation, all of which shall be the obligation of Landlord to maintain in good order, condition and repair. Notwithstanding the foregoing, Tenant shall be responsible for maintaining the following elements within the Leased Premises:
- i. Hospital Systems: PA Overhead Paging system; Smoke Curtains-North Elevators.
 - ii. HVAC Systems: Only to the extent Landlord allows/provides Tenant with access to control information, Tenant shall maintain the Exhaust fans, VAVs, Fan coils, induction units which serve only Tenant; Actuators and other control valves on equipment serving only the Leased Premises; and thermostats that control only the Leased Premises.
 - iii. Plumbing Systems: Plumbing system at point of service (includes fixture and p-trap only).
 - iv. Medical Gas Point of Service ("point of service" refers to the wall plat at individual points of use).
 - v. Compressed Air compressors housed in third floor mechanical room and distribution systems.
 - vi. Vacuum system, which includes one pump and system housed in the third floor mechanical room, as well as one small pump for dental.
 - vii. Electrical Systems: Lighting in Tenant patient care areas, Lighting in Leased Premises Common Areas, Nurse Call system and Cable TV system.

Tenant shall do all acts required to comply with all applicable laws, ordinances, regulations and rules of any public authority relating to its obligations as set forth herein. Tenant shall permit no use of the Premises which shall result in any waste on the Premises or in the Common Areas, or any public or private nuisance that may in any way disturb the Landlord or in any way disturb or interfere with the use of the Hospital Complex for hospital or related or incidental purposes.

- b. **Specific Landlord Maintenance Responsibilities.** Notwithstanding standard, customary and legal obligations of Landlord to maintain the Hospital Complex, Landlord shall keep in good order, condition and repair, the structural elements of the roof, outside walls, building skin, basement and foundation. Landlord shall also be solely responsible for the maintenance of the following systems and elements within the Leased Premises:

- i. Hospital Systems: Pneumatic Tube System, OR temperature and pressure, General HVAC controls (other than thermostats and actuators), Central and North Elevators, Security Gate at 200 valet entrance, Trash Chutes and Waste Storage Rooms, Roof and Envelope Systems. Any equipment or control systems added by the Tenant are excluded from this.
 - ii. HVAC Systems: BAS controls and stats, Heating and Cooling Systems, Roof Top Units.
 - 1. Landlord shall notify Tenant at least one (1) day prior to changing from heating to cooling/cooling to heating, and if any stats, valves or other controls serving Tenant are to be locked out, shut off/turned on or closed/opened.
 - 2. Landlord shall perform testing of fire and smoke dampers in the HVAC systems serving Tenant.
 - iii. Plumbing Systems: All plumbing and drain systems beyond the fixtures, Fire Sprinkler system and testing, Medical Gas system and zone valve testing, Steam service, Domestic Water service, Chilled Water service, Hydronic Water service, and Compressed Air system.
 - iv. Electrical systems: Emergency, UPS, and Critical Power systems, Electrical systems including upstream and downstream from service panels, and Fire Alarm and testing.
 - v. Common Areas: Landlord is responsible for maintaining all Common Areas of the Hospital Complex, including testing and inspection of fire doors.
 - vi. Regulatory documentation related to inspection and testing of systems such as, but not limited to: fire, life safety, and utilities that are maintained by Landlord shall be provided to the Tenant upon request.
 - vii. Landlord and Tenant shall coordinate fire drills that meet requirements established by CMS and The Joint Commission under Life Safety 101.
- c. **Surrender.** Upon the expiration or earlier termination of this Lease or any part thereof, Tenant shall surrender the Premises (or the part thereof) in the condition required by the terms of this Lease, broom clean, except ordinary wear and tear and damage which could be covered by standard fire and extended coverage insurance, whether or not caused by the negligence of Tenant, its employees or agents. Tenant, at its sole cost and expense, agrees to repair any material damage to the Premises caused by or in connection with the removal of any property permitted to be removed by this Section VII. c. Tenant shall not be obligated to repair normal, incidental wear and tear to the Premises caused or revealed by removal including but not limited to scrapes, dents, holes, loose or missing floor or ceiling tiles, unpainted or faded painted areas, and work or torn carpeting and floor and wall coverings. Tenant shall indemnify the Landlord against any loss or liability resulting from delay by Tenant in so surrendering the Premises, including, without limitation, any claims made by any succeeding tenant founded on such delay.
- d. **Landlords Rights.** In the event Tenant fails to perform Tenant's obligations under this Section VII with respect to the Premises, Landlord shall give Tenant notice to

do such acts as are reasonably required to so maintain the Premises; if Tenant shall fail to commence such work and diligently prosecute it to completion, then Landlord shall have the right but not the obligation to do such acts and expend such funds at the expense of Tenant as are reasonably required to perform such work. Any amount so expended by Landlord shall be paid by Tenant promptly after demand with interest at the rate of twelve percent (12%) per annum from the date of such work; provided, however, in the event twelve percent (12%) is in excess of that permitted by law, the interest chargeable shall be the lesser maximum then permitted by law. Landlord shall have no liability to Tenant for any damage, inconvenience or interference with the use of the Premises by Tenant as a result of performing any such work.

e. Alterations and Additions.

- i. During the Term hereof, Tenant may make alterations, additions, improvements or utility installations to the Premises as desired for the conduct of its business, provided that structural alterations or alterations to the central mechanical or electrical systems be made only with Landlord's prior written consent, which, however, shall not be unreasonably withheld or delayed. Tenant agrees that workmanship and materials in connection with alterations, additions, improvements or utility installations will not be materially inferior to that of other comparable improvements in the Premises at the time such work is done. Notwithstanding that Landlord's consent may not be required for alterations, additions, improvements or utility installations, Tenant agrees to give Landlord not less than forty-five (45) days prior written notice of any alterations, additions, improvements or utility installations reasonably expected to cost more than One Hundred Thousand Dollars (\$100,000.00) in the aggregate or which involve the structure or the central mechanical or electrical systems whether or not such structure or systems are being altered. If the alterations, additions, improvements or utility installations are reasonably expected to cost more than One Hundred Thousand Dollars (\$100,000.00) in the aggregate, Landlord may require Tenant to provide Landlord, at Tenant's sole cost and expense, a lien and completion bond in an amount equal to the estimated cost of such improvements, to insure Landlord against any liability for Mechanics' and materialmen's liens and to insure completion of the work. As used in this Section, the term "utility installations" shall include ducting, power panels, fluorescent fixtures, space heaters, conduit and wiring.
- ii. All alterations, additions, improvements and utility installations (whether or not such utility installations constitute trade fixtures of Tenant), which Tenant has on the Premises as of the date of this Lease or which may hereafter be made on the Premises, shall at the expiration or earlier termination of the Lease become the property of Landlord and remain upon and be surrendered with the Premises. Notwithstanding the provisions of this Section VII.e.ii., personal property, business and trade fixtures,

cabinetwork, furniture, movable partitions, machinery and equipment, telephone and computer systems and similar items, other than that which is affixed to the Premises so that it cannot be removed without material damage to the Premises, shall remain the property of Tenant and may be removed by Tenant subject to the provisions of Section VII.c., at any time during the Term of the Lease.

VIII. LANDLORD'S RIGHT OF ENTRY

Upon reasonable advance notice (except in the event of an emergency) and subject to due consideration for the rights and sensitivities of Tenant's patients, Landlord and Landlord's agents shall have the right at reasonable times to enter the Premises to inspect the same or to maintain or repair, or to show the Premises to prospective purchasers, tenants or lenders. Except for claims resulting from Landlord's negligence, Tenant hereby waives any claim for abatement of rent or for damages for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby.

IX. LIENS

Tenant shall keep the Premises free from any liens arising out of work performed, materials furnished or obligations incurred by Tenant and shall indemnify, hold harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. Notwithstanding the foregoing, if Tenant is in good faith contesting a claim of a lien claimant, the lien may remain so long as, in the reasonable opinion of counsel to Landlord, such lien does not subject the Premises or other property of Landlord to imminent loss. If, in the reasonable opinion of counsel to Landlord, such lien (or a judgment based upon such lien) does subject the Premises or other property of landlord to imminent loss and Tenant fails to promptly cause such lien to be released of record by payment or posting of a proper bond, Landlord shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim giving rise to such lien. All such sums paid by Landlord and all expenses incurred by it in connection therewith including attorneys' fees and costs shall be payable to Landlord by Tenant on demand with interest at the rate of twelve percent (12%) per annum or the maximum rate permitted by law, whichever is the lesser. Landlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law, or which Landlord shall deem proper, for the protection of Landlord and the Premises, and any other party having an interest therein from mechanics' and materialmen's liens.

X. TAX EXEMPT PROVISIONS

- a. **Tenant Representations and Warranties.** Tenant is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the “**Code**”) is exempt from federal income tax under Section 501(a) of the Code and is not a private foundation under Section 509(a) of the Code. Attached hereto as Exhibit D is a copy of the most recent evidence from the Internal Revenue Service of Tenant’s tax-exempt status. That ruling (the “**Ruling**”) is in full force and effect, has not been adversely modified, limited or revoked and there has been no change nor, to the knowledge of Tenant, threatened change to its tax-exempt status since the date of the Ruling. The facts and circumstances with respect to Tenant which formed the basis of the Ruling as represented to the Internal Revenue Service continue to substantially exist. As of the date of this Lease, Tenant has no notice or knowledge of any facts or circumstances that would support a determination by the Internal Revenue Service that Tenant is not in compliance with all the terms, limitations and conditions, if any, contained in the Ruling. Tenant (1) operates in a manner consistent with such status as an organization described in Section 501(c)(3) of the Code, and (2) has no notice or knowledge of any facts which could have a material adverse effect on Tenant’s status as an organization described in Section 501(c)(3) of the Code or its exemption from federal income taxation under 501(a) of the Code.
- b. **Tenant Covenants.** Tenant agrees that so long as the Lease is in effect and there are tax-exempt bonds outstanding (“**Bonds**”) that have either financed or refinanced all or any part of the Premises, it will (1) at all times maintain its existence as a nonprofit corporation and its status as an organization described in Section 501(c)(3) of the Code that is exempt from federal income taxation under 501(a) of the Code, (2) not sublease any portion of the Premises or contract for services to be delivered in any portion of the Premises with any entity (other than its affiliates which are organizations described in Section 501(c)(3) of the Code), unless such sublease or contract is approved by a written opinion of bond counsel (which shall not be unreasonably withheld, conditioned or delayed, and which shall be issued within 20 days of request by Tenant), (3) not use any portion of the Premises in an “unrelated trade or business” (as defined in Section 513 of the Code) of Tenant, and (4) with respect to the Premises, will not, after written notice from Landlord (based upon the written opinion of bond counsel) take any action mentioned in the notice which would, or fail to take any action mentioned in the notice the omission of which would (in the reasonable opinion of bond counsel), result in the interest paid or payable on any Bonds becoming includable for federal income tax purposes in the gross income of any owner of the Bonds; provided that such notice shall not require any action, nor prohibit any action, which would materially and adversely affect Tenant’s core business or mission.

XI. MUTUAL RELEASE

- a. **Exemption of Landlord from Liability.** Landlord shall not be liable for injury to Tenant’s business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property (real, personal, or mixed) of Tenant, its employees, patients, invitees, customers, agents or contractors

or any other person in or about the Premises, caused by or resulting from fire (or any other cause which could be covered by fire and extended coverage insurance), steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant or was caused by the negligence of Landlord, its employees or agents.

- b. **Exemption of Tenant from Liability.** Tenant shall not be liable for injury to Landlord's business or loss of income therefrom or for damage which may be sustained by the person, goods, wares, merchandise or property (real, personal, or mixed) of Landlord, its employees, patients, invitees, customers, agents or contractors or any other person in or about the Premises, caused by or resulting from fire (or any other cause which could be covered by fire and extended coverage insurance), steam, electricity, gas, water or rain, which may leak or flow from or into any part of the Premises, or from the breakage, leakage, obstruction or other defects of the pipes, wires, appliances, plumbing, air conditioning or lighting fixtures of the same, whether the said damage or injury results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Landlord or was caused by the negligence of Tenant, its employees or agents.

XII. INSURANCE

- a. Except as hereinafter noted, Landlord and Tenant each shall, at their own expense, purchase and maintain at all times during the term of this Lease such insurance as is set forth below. The limits of such insurance shall not limit the liability of either party, and either party may increase the limits or purchase additional coverage as it determines necessary to cover its exposure.
- b. Professional liability insurance with limits of at least \$1 million per occurrence and \$3 million in the aggregate. Commercial general liability (CGL) insurance in the amount of \$1 million per occurrence with an aggregate coverage of \$5 million per occurrence, with reasonable and customary deductible or self-insured retention amounts. The CGL policy shall be endorsed to specifically include contractual liability (either on a blanket basis or with this Lease specifically named); independent contractors; broad form coverage; and personal injury liability. A business automobile policy covering non-owned, owned and hired automobiles with limits of at least \$1 million per occurrence. The CGT and professional liability policies can be written on a claims made and reported basis. The CGL policy shall name Ramsey, and the Landlord or Tenant (as applicable) as additional insureds.

- c. Workers' compensation insurance in the minimum amount per statutory limits and employer's liability in the minimum amount of \$500,000 per occurrence. A pollution legal liability policy with limits of at least \$3 million per occurrence and in the aggregate covering third-party liability and remediation costs for the storage, use, and disposal of potential hazardous substances and/or chemicals.
- d. Fire and all risk coverage insurance for replacement value, subject to reasonable and customary deductible or retainage amounts, for risks and casualties, including but not limited to fire, windstorm, hail, explosion, water damage, vandalism, riot and civil commotion, damage from vehicles, business interruption, and smoke damage, covering all of the respective improvements, betterments, fixtures, equipment, furnishings and other contents of the Tenant and Landlord (as applicable) within the Hospital Complex.
- e. Landlord and Tenant shall deliver to one another, and to Ramsey, certificates of insurance evidencing the existence and amounts of such insurance with loss payable clauses satisfactory to the additional insured, provided that, in the event either Tenant or Landlord fails to procure and maintain such insurance, the other party may (but shall not be required to) procure same at the defaulting party's expense after thirty (30) days' prior written notice to the defaulting party. Tenant and Landlord each shall, within thirty (30) days prior to the expiration of such policies, furnish the other party with renewals or binders or the other party may order such insurance and charge the cost to the defaulting party, which amount shall be payable upon demand. Each party shall have the right to provide such insurance coverage pursuant to blanket policies, provided such blanket policies expressly afford the coverages required by this Lease.
- f. Landlord and Tenant will provide each other with notice of any cancellation, termination or material alteration of any insurance policies or self-funded program required hereunder as soon as possible but in no event later than ten (10) days after such cancellation, termination or material alteration. Prior to the expiration or cancellation of any such policies or self-funded program, each party will secure replacement of such insurance coverage or self-funded program upon the same terms and will furnish to the other party a certificate as described above.
- g. Nothing in this Lease shall constitute a waiver by Ramsey, Landlord or Tenant of any statutory limits or exceptions on liability.
- h. **Subrogation Waiver.** Landlord and Tenant each hereby waive any and all rights of recovery against the other or against the officers, employees, agents and representatives of the other, on account of loss or damage occasioned to such waiving party of its property (real, personal, or mixed) or the property of others under its control caused by fire or any of extended coverage risks to the extent that such loss or damage could be insured against under a standard policy or which is in fact insured against under any insurance policy in force at the time of such loss or damage. The insuring party shall, upon obtaining the policies of insurance required

under this Lease, give notice to the insurance carrier or carriers that the foregoing mutual waiver of subrogation is contained in this Lease.

- i. **Adjustments in Coverage.** Because of the long-term nature of this Lease, either Tenant or the Landlord may periodically (but not more frequently than every three years) require the mutual, minimum coverage limits, and the types of coverage, set forth in this Section XII to be changed to the levels and types that are then customary for major hospital facilities in the seven county Twin Cities metropolitan area ("**Reasonable Coverage**"). In the event there is a disagreement over Reasonable Coverage, the parties shall determine Reasonable Coverage by a third party survey of (1) such major hospital facilities in said metropolitan area or (2) insurance brokers who arrange and are familiar with insurance for such facilities, with the costs of the survey borne equally by Landlord and Tenant.

XIII. DAMAGE OR DESTRUCTION

- a. In the event that the Hospital Complex has damage or destruction to some or all of its constituent components, which renders the Hospital Complex functionally unusable, then the Landlord may elect, at its option and in its sole discretion, whether or not to repair, restore, or rebuild the Hospital Complex, or some or all of its constituent components, to its or their condition prior to such damage or destruction, or to a functionally similar condition. Landlord shall notify Tenant in writing within 120 days after the date of such damage and destruction of Landlord's election under this Section. In the event Landlord elects to repair, restore or rebuild, the rental and other charges due under this Lease shall be equitably abated until the repair, restoration, or rebuilding is complete to the extent that Tenant's use of the Premises is adversely affected by the damage or destruction, and the term of this Lease shall be extended for such period of time as such part of the Premises is untenantable or functionally usable. Such repair, restoration, and rebuilding shall be commenced by Landlord within a reasonable time after its election to repair, restore or rebuild. In the event Landlord elects not to repair, restore or rebuild, the Tenant may elect, at its own option and in its sole discretion, to terminate this Lease. If Landlord elects to rebuild, Tenant shall be entirely responsible for the cost of the repair, restoration, or rebuilding of damage to the improvements, betterments and fixtures to the Leased Premises and West Parking Rights areas and shall use all of Tenant's net proceeds from any fire and extended coverage insurance covering improvements and betterments located in the Leased Premises, to the extent necessary for the repair, restoration, and rebuilding of improvements, betterments and fixtures located in the Leased Premises.
- b. Ramsey and Landlord further agree that in the event any damage or destruction to the Premises or Common Areas that interrupts Tenant's ability to use portions of the Premises for services and operations that are unique, they will promptly and diligently confer with Tenant regarding (1) alternate and/or substitute sites for delivery of such unique services (within or outside the Hospital), and (2) if the damaged area is to be rebuilt or refurbished, the schedule for the same and the

application of insurance proceeds thereto. Moreover, if by reason of such damage or destruction, the Landlord elects not to rebuild and terminate this Lease, but Tenant believes that those portions of the Hospital Complex housing and serving the Premises are undamaged and could be retained as an independent, functioning unit, Tenant may negotiate with the County to lease the same directly with all costs of repair, severance, and refixturing to be Tenant's responsibility, provided that the same will not impose any burden, liability or obligation on the Landlord, and the Landlord shall be released from the Prime Lease to the extent it requests after assessing the proposed direct lease. Landlord agrees that it will keep in place adequate property damage insurance so that rebuilding and/or restoration of the Hospital Complex is financially feasible after a casualty. Tenant agrees that it will keep in place adequate property damage insurance so the rebuilding and/or restoring, reinstalling, re-equipping, refunding and re-supplying all of the Leased Premises is financially feasible after a casualty.

XIV. CONDEMNATION

- a. **Effect.** The terms and conditions of this Section amend and supplement the terms and conditions of the Prime Lease, including, without limitation, Section 13 of the Prime Lease. If there is any conflict between or ambiguity in the terms and conditions of this Section and those in the Prime Lease, this Section shall govern and control. The parties confirm that (1) Ramsey is the fee owner of the Hospital Complex land and certain improvements which it constructed on the Land; (2) Landlord is the tenant and leasehold interest holder of the entire Hospital Complex under the Prime Lease (subject to the lease of the Blue Tile area of Area A from Ramsey to Tenant) and the Landlord has itself constructed significant improvements and undertaken significant renovations, and has installed many fixtures within the Hospital Complex; and (3) Tenant is the tenant and leasehold interest holder of the Leased Premises under this Lease, and has itself constructed significant improvements and undertaken significant renovations, and has installed many fixtures within the Leased Premises. In addition, Landlord and Tenant anticipate making additional capital improvements and additions to the Hospital Complex in the future. It is the intent of this Section to provide for an equitable division of the proceeds of any award in condemnation, or sale in lieu of condemnation, to Ramsey, The Landlord, and Tenant, recognizing the fair market value of the contributions of each party to the land and improvements constituting the Hospital Complex.
- b. **Prime Lease.** In the event any portion of the Hospital Complex, or the Landlord's related leasehold, use or access rights, are taken under the power of eminent domain, or any of the same are transferred to any party under the threat of the exercise of eminent domain or in settlement thereof (all of which events are herein referred to as "condemnation"), and the condemnation, in the Landlord's judgment, does not meaningfully impair the ability of the Landlord to continue its operations in the balance of the Hospital Complex, the Prime Lease shall cease and terminate only with respect to the portion of the Hospital Complex and/or the related rights

which are subject to the condemnation. If all of the Hospital Complex, or such portion thereof as may render the remainder of the Hospital Complex, in the Landlord's sole judgment reasonably exercised, no longer sufficient to support the Landlord's various hospital and allied operations as a viable economic enterprise, then Landlord shall elect, by notice given to Ramsey within ninety (90) days after the effective date of the transfer of title or interest resulting from the condemnation, either to (1) renovate and/or build its own hospital and/or allied facilities on the remainder (if any) of the Hospital Complex site, or (2) terminate the Prime Lease. (Note: Tenant's comparable rights are covered in Section XIV c.) Landlord shall be entitled to participate in any action or proceedings in connection with a condemnation as a tenant/owner and to pursue whatever action it deems necessary to protect its interests hereunder. All compensation awarded for the taking of, or a condemnation affecting the Hospital Complex, whether by court order, judgment, settlement, or other determination shall be divided between Ramsey and Landlord as follows:

- i. Ramsey shall be entitled to all compensation awarded for the fair market value of any Land taken, and neither Landlord nor Tenant shall have any right, share, or claim thereto.
 - ii. Ramsey shall be entitled to all compensation awarded for the fair market value of that building which, as of the date of this Lease, is used as the Ramsey County Morgue, and any and all fixtures and equipment therein, and any relocation expenses awarded therefor, and neither the Landlord nor Tenant shall have any right, share or claim thereto.
 - iii. Ramsey and Landlord, as their respective interests may appear, shall be separately entitled to compensation for the then-current fair market value of any improvements to the Hospital Complex they have respectively contributed to or constructed.
 - iv. Ramsey and Landlord, as their respective interests may appear, shall be separately entitled to any part of any award in condemnation or other compensation for any fixtures and equipment which they have purchased for and had installed in the Hospital Complex.
 - v. Additionally, the Landlord is entitled to recover any relocation, re-establishment and other moving expenses pursuant to the Uniform Relocation Act and similar laws and rules.
- c. **Gillette Lease.** In the event any portion of the Leased Premises, or the Tenant's related leasehold interest, use or access rights are taken under the power of eminent domain, or any of the same are transferred to any party under the threat of the exercise of eminent domain or in settlement thereof (all of which events are referred to as "condemnation"), and the condemnation in the Tenant's judgment does not meaningfully impair the ability of the Tenant to continue its operations in the balance of the Premises, the Tenant's Lease shall cease and terminate with respect only to the portion of the Premises and/or the related rights which are the subject of condemnation. If all of the Premises, or such portion thereof as may render the remainder of the Premises, in the Tenant's sole judgment reasonably exercised, no longer sufficient to support the Tenant's various hospital and allied operations as a

viable economic enterprise, then Tenant shall elect, by notice given to Ramsey and Landlord within ninety (90) days after the effective date of the transfer of title or interest resulting from the condemnation, either to (1) renovate and/or rebuild Tenant's own hospital and/or allied facilities on the remainder (if any) of the Premises site, or (2) terminate this Lease. Tenant shall be entitled to participate in any action or proceedings in connection with condemnation as a tenant/owner and to pursue whatever action it deems necessary to protect its interest hereunder. All compensation for the taking of, or a condemnation affecting, the Premises, whether by court order, judgment, settlement, or other determination, shall be divided between Ramsey and the Tenant as follows:

- i. Ramsey shall be entitled to all compensation awarded for the fair market value of any land taken, and neither Landlord nor Tenant shall have any right, share or claim thereto.
 - ii. Ramsey shall be entitled to all compensation awarded for the fair market value of that portion of the Premises which was granted to Ramsey and the City of St. Paul by Chapter 599, Laws of Minnesota for 1988. This is the portion of Area A that was conveyed by the former "Blue Tile" Lease, and that portion of the North Ramp allocated to Tenant by the Joint Ownership Agreement between Ramsey County and the Gillette Hospital Authority dated February 19, 1975. Neither Landlord nor Tenant shall have any right, share, or claim thereto, unless it is determined by a court of competent jurisdiction that, notwithstanding the provisions of Chapter 599, Laws of Minnesota for 1988, Tenant is successor in interest of the State of Minnesota to fee title to said "Blue Tile" portion of Area A, in which event Tenant shall be entitled to the fair market value of said fee interest, free of any claim by Ramsey or Landlord.
 - iii. Tenant shall be entitled to the then current fair market value of any improvements it has made to the Premises, and neither Ramsey nor the Landlord shall have any right, share, or claim thereto.
 - iv. Ramsey and Tenant, as their respective interests may appear, shall be separately entitled to the then current fair market value of any fixtures and equipment which they have purchased for and had installed in the Premises.
 - v. Additionally, the Tenant shall be entitled to recover the relocation, re-establishment and other moving expenses pursuant to the Uniform Relocation Act and similar laws and rules.
- d. **Ramsey to Provide Site.** If the Landlord, Tenant or both elect to rebuild a hospital complex on any portion of the Land remaining after condemnation, then Ramsey hereby covenants that it will provide a ground lease of sufficient duration to enable the Landlord and/or Tenant to rebuild the hospital if either elects to do so. Nothing in this Section shall require Ramsey either to acquire additional land, or if the above-described County Morgue has not been, in the judgment of Ramsey, materially affected in its use or organization by the taking in condemnation, to remove the Morgue from its existing site. (See Section XIV g. for provisions regarding rebuilding).

- e. **Severance Damages.** In any condemnation affecting both the Premises and any part of Landlords interest in the Hospital Complex, both Tenant and Landlord shall retain the right to assert severance damages on their own account, to the extent such damages do not diminish the other party's severance damage claim or Ramsey's share of any condemnation award.
- f. **Rent Adjustment.** In the event of a condemnation affecting the Premises or Tenant's leasehold interest, use or access rights, if Tenant does not terminate the Lease as referenced in this Section, Landlord and Tenant agree to make an equitable adjustment to future rental payments under the Lease to reflect the reduction in the value of Tenant's leasehold interest in the Premises that results from the condemnation.
- g. **Rebuilding Premises.** In the event this Lease is not terminated by Tenant after a condemnation affecting the Premises, Landlord may elect to rebuild the Premises at Landlord's sole option and cost. If Landlord elects to rebuild, Landlord shall restore the Premises to a complete unit of like quality and character as existed prior to the condemnation as soon as reasonably possible. In the event that this Lease is not terminated by Tenant by reason of such condemnation, and Landlord elects to rebuild the Premises, Tenant shall make available to Landlord the entire award or compensation paid to Tenant (except the part awarded for loss of or damage to Tenant's fixtures, furnishings and equipment) to be used, to the extent necessary, to repair, restore or replace Tenant's part of the Premises, and any part of said award not needed for such repair, restoration or replacement shall be promptly returned to Tenant. If Tenant elects to change the Premises or desires improvements in addition to those that can be made with said award or compensation paid to Tenant of the award, Tenant shall deposit with Landlord the difference in cost over and above the condemnation award prior to the commencement of the reconstruction. If Landlord elects not to rebuild the Premises, then all of the Tenant's share of the award shall belong to the Tenant. If Landlord elects to rebuild or reconstruct a facility on the land remaining after a condemnation it shall do so at its own expense (with any Tenant contribution called for by this Section) and at no cost or expense to Ramsey.
- h. **West Parking Ramp.** If the West Ramp is ever taken in an exercise of condemnation to such an extent that it is no longer capable of serving as a functioning and economically viable unit, and Landlord elects not to rebuild or restore the structure using its and Tenant's related condemnation proceeds, Landlord and Tenant will develop a mutually agreeable plan for parking spaces for Tenant's use at least equal to the West Parking Rights.
- i. **Essential Fixtures/Purchase Option.** Ramsey, Landlord and Tenant shall retain all right, title and interest, free of any claim of any of the other parties, to any fixtures and equipment they have purchased, and shall have the right to remove their respective fixtures and equipment from the Hospital Complex at any time. Nonetheless, should Ramsey elect to continue operation of the part of the Hospital

Complex remaining after a condemnation, and Landlord and Tenant decline to participate and elect to terminate this Lease, then neither Landlord nor Tenant may remove any fixtures or equipment which will damage the remaining hospital structure or impair its use as a hospital, without the consent of Ramsey. If in such a case Ramsey does not consent to the removal of such fixtures or equipment purchased by Landlord or Tenant, Ramsey shall promptly pay Landlord or Tenant, separately and as their respective interests may appear, the fair market value of any fixtures or equipment Ramsey has elected to keep in the Hospital Complex.

XV. TRANSFER AND SUBLETTING

- a. **Landlord's Consent Required.** Subject to the provisions of Section VI hereof, Tenant shall not transfer this Lease or any interest therein, and shall not sublet the Premises or any part thereof, without the prior written consent of Landlord, and any attempt to do so without such consent being first made and obtained shall be wholly void and shall constitute a breach of this Lease.
- b. **Information to be Submitted.** For the purpose of assisting Landlord in determining whether or not Landlord wishes to consent to a transfer or sublease, Tenant shall submit in writing to Landlord: (1) the name and legal composition of the proposed transferee or subtenant; (2) the nature of the proposed transferee's or subtenant's business to be carried on in the Premises; (3) the terms and provisions of the proposed transfer or sublease; (4) such reasonable financial information as Landlord may request concerning the proposed transferee or subtenant.
- c. **No Release of Tenant.** No consent by Landlord to any transfer or subletting by Tenant shall relieve Tenant of any obligation to be performed by the Tenant under this Lease, whether occurring before or after such consent, transfer or subletting. The consent by Landlord to any transfer or subletting shall not relieve Tenant from the obligation to obtain Landlord's express written consent to any other transfer or subletting. The acceptance of rent by Landlord from any other person shall not be deemed to be a waiver by Landlord of any provision of this Lease, or to be consent to any transfer or subletting. Consent to one transfer or subletting shall not be deemed to constitute consent to any subsequent transfer or subletting.

XVI. SUBORDINATION AND ATTORNMENT

- a. This Lease is hereby subordinated to the Prime Lease and any other ground or underlying lease, and any deed of trust or mortgage, whether heretofore or hereafter created. If title to the Hospital Complex is hereafter vested in the holder of any such ground or underlying lease or any such deed of trust or mortgage, Tenant shall, at the option of such holder, attorn to such holder on the then terms of this Lease, as provided in this Section. Such attornment shall be upon the express condition that this Lease shall be recognized by such holder, and that the rights of Tenant shall remain in full force and effect during the term of this Lease so long as Tenant shall continue to observe and perform promptly all of Tenant's covenants,

agreements and obligations under this Lease. For confirmation of such subordination, attornment, or both, Tenant shall promptly execute, acknowledge and deliver such agreement or agreements as may be required.

- b. In the event of (1) any sale, transfer, assignment or other conveyance of all or a (divided or undivided) part of Landlord's interest in all or part of the Hospital Complex in which the Leased Premises are located, (2) any proceeding brought for the foreclosure of any mortgage or deed of trust encumbering said hospital, or (3) the termination or cancellation of any ground lease of the land, Tenant shall attorn to and recognize as Landlord hereunder the resulting purchaser, transferee or ground lessor, upon the express condition that this Lease shall be recognized by any such purchaser, transferee or ground lessor, and that the rights of Tenant shall remain in full force and effect during the term of this Lease so long as Tenant shall continue to observe and promptly perform all of Tenant's covenants, agreements, and obligations under this Lease. Tenant shall, within ten (10) days after written receipt thereof, execute and acknowledge any instrument reasonably required to evidence such attornment and recognition and shall deliver such executed instrument to the party requiring the same within said limited period of time.
- c. The parties agree that the "Blue Tile" areas of Area A are subject to the rights of the State of Minnesota under the terms of that certain General Fund Grant Agreement dated February 11, 2002, between Ramsey and the Minnesota Department of Administration (the "**End Grant Agreement**"); a Use Agreement, effective February, 2002, between Ramsey and Tenant; and a Declaration required to be filed of record by the terms of the End Grant Agreement and which is filed of record in the office of the Ramsey County Registrar of Titles as Document No 1673771. All terms and conditions of this Lease, as applied to said Blue Tile areas of Area A, are and shall be subordinate to the End Grant Agreement, Use Agreement, and Declaration. Any conflict between this Lease and the End Grant Agreement, Use Agreement, or Declaration as applied to said Blue Tile Areas of Area A, shall be resolved in favor of such agreements.

XVII. DEFAULT AND REMEDIES

- a. **Default by Tenant.** The occurrence of any of the following shall constitute a material default and breach of this Lease by Tenant:
 - i. Any failure by Tenant to pay base rent, operating expense charges, West Parking Ramp charges, or any other monetary sums required to be paid hereunder (where such failure continues for thirty (30) days after receipt of written notice thereof by Landlord to Tenant);
 - ii. A failure by Tenant to observe and perform any other provision of this Lease to be observed or performed by Tenant, where such failure continues for thirty (30) days after receipt of written notice thereof by Landlord to Tenant; provided, however, if the nature of such default is such that the same cannot reasonably be cured within such thirty (30) day period, Tenant shall not be

- deemed to be in default if Tenant shall, within such period, commence such cure and thereafter diligently prosecute the same to completion;
- iii. The making by Tenant of any general assignment or general arrangement for the benefit of creditors; the filing by or against Tenant of a petition to have Tenant adjudged bankrupt or of a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or the attachment, execution or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.
- b. **Remedies.** In the event of any such material default or breach by Tenant, Landlord may at any time thereafter, while any such material default or breach by Tenant is uncured, exercise either of the following rights and remedies which shall be the exclusive remedies at law or in equity which Landlord may have by reason of such default or breach:
- i. Subject to Tenant's right to surrender part or all of the Premises, maintain this Lease in full force and effect and recover the rent and other monetary charges as they become due, without terminating Tenant's right to possession. Notwithstanding that Landlord fails to elect to terminate the Lease initially, Landlord at any time during the term of this Lease prior to the cure of all defaults by Tenant may elect to terminate this Lease by virtue of such previous default of Tenant.
 - ii. Terminate Tenant's right to possession by any lawful means, in which case this Lease shall terminate and Tenant shall immediately surrender possession of the Premises to Landlord, in such event Landlord shall be entitled to reenter the Premises and recover from Tenant all rent and other monetary charges due under the Lease to the date of termination of the Lease.
- c. **Default by Landlord.** Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within thirty (30) days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have theretofore been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligation (unless the failure to perform is in response to an emergency in which event Landlord shall be in default if it fails to act immediately); provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion. Upon default by Landlord, Tenant shall have the right to cure Landlord's default and Landlord shall be liable for the

reasonable costs of cure, which right shall be in addition to such other rights and remedies as may be available to Tenant at law or in equity.

XVIII. NOTICES

- a. All notices required or permitted hereunder shall be in writing and shall be deemed to have been given, unless otherwise herein provided, when the same are received by US Mail, certified postage with return receipt requested. All notices shall be addressed to the following addresses unless a party notifies the other of a change of address in the manner provided for notices hereunder:

i. If to **Landlord**:

President
Regions Hospital
640 Jackson Street
St. Paul, MN 55101

ii. If to **Ramsey**:

Chair
Ramsey County Board of Commissioners
220 Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102

With a copy to:

Ramsey County Attorney
Lowry Building, Suite 120
345 Wabasha Street North
St. Paul, MN 55102

iii. If to **Tenant**:

President
Gillette Children's Specialty Healthcare
200 University Avenue East
St. Paul, MN 55101

XIX. MISCELLANEOUS

- a. **Contingency.** This Lease, though executed by Landlord and Tenant, shall not be considered effective or in force and effect until (1) executed and delivered by required officials of Ramsey (the Board of Commissioners of Ramsey), and (2) approved by action of the Boards of Directors of the Landlord and of the Tenant.

- b. **Estoppel Certificate.** Either party shall at any time upon not less than ten (10) days prior written from the other, execute, acknowledge and deliver to the other a statement in writing (1) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the date to which the rent and other charges are paid in advance, if any; (2) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other hereunder, or specifying such defaults if any are claimed; and (3) providing such other reasonable information as requested. Any such statement may be conclusively relied upon by a prospective purchaser, transferee, subtenant or encumbrancer of the Premises.

A party's failure to deliver such statement within such time shall be conclusive upon such party that this Lease is in full force and effect, without modification except as may be represented by the other party, that there are no uncured defaults in the other party's performance, and that not more than one month's rent has been paid in advance.

If Landlord desires to finance or refinance Regions Hospital, or any part thereof, Tenant hereby agrees to deliver to any lender designated by Landlord such financial statements of Tenant as may be reasonably required by such lender. All such financial statements shall be received by Landlord or lender in confidence insofar as is possible within existing laws applicable to Landlord and shall only be used for the purposes herein set forth.

- c. **Signage.** Tenant shall have the right to place signs, placards, statements and notices throughout the Premises as may be reasonably related to its operations in the Premises. All signage installed after the date hereof shall be consistent with Landlord's standard signage at Regions Hospital. Any signage visible outside the Premises shall be subject to the Landlord's prior written approval of size, content, and aesthetics. Approval of signage is not to be unreasonably withheld or delayed.
- d. **Reasonable Consent.** Except as limited elsewhere in this Lease and specifically except Section XV, wherever in this Lease Landlord or Tenant is required to give its consent or approval to any action on the part of the other, such consent or approval shall not be unreasonably withheld or delayed. In the event of failure to give any such consent, the other party shall be entitled to specific performance at law and shall have such other remedies as are reserved to it under this Lease, but in no event shall Landlord or Tenant be responsible in monetary damages for failure to give consent unless said failure is withheld maliciously or in bad faith.
- e. **Quiet Enjoyment.** Landlord represents and warrants that the Premises are owned or controlled under an underlying lease by the Landlord; that the Landlord is empowered to enter into this Lease, and that it will warrant and defend against all lawful claims, the Tenant's peaceful possession of the Premises during the Term, subject only to such conditions as are provided in this Lease, so long as Tenant

keeps and performs, promptly each of the terms, covenants and conditions of this Lease to be performed or kept by it.

- f. **Surrender of Premises.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of the Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.
- g. **Holding Over.** If Tenant remains in possession of all or any part of the Premises after the expiration of the term hereof, with or without the express or implied consent of Landlord, such tenancy shall be from month to month only, and not a renewal hereof or an extension for any further term, and in such case, rent and other monetary sums due hereunder shall be payable in the amount and at the time specified in this Lease and such month to month tenancy shall be subject to every other term, covenant and agreement contained herein.
- h. **Interest on Past Due Obligations.** Except as expressly herein provided, any amount due to either party shall bear interest at twelve percent (12%) per annum or the maximum amount permitted by law, whichever is less, from the date such amount is in default to the date of payment.
- i. **Recording.** Tenant shall not record this Lease without Landlord's prior written consent, and such recording shall, at the option of Landlord constitute a noncurable default of Tenant hereunder. All parties shall, at the request of any party, execute, acknowledge and deliver a "short form" memorandum of this Lease for recording purposes.
- j. **Old Leases.** This Lease supersedes, replaces and terminates the Main Gillette Lease, the Space Lease, and the First, Second, Third, Fourth and Fifth Amendments identified in the Recitals, effective as of the Effective Date of this Lease. With respect to all occurrences and claims accruing on or after the Effective Date of this Lease, all rights and obligations of the parties, and remedies available to the parties, with respect to the Premises and the subject matter of this Lease, shall be governed by this Lease. Ramsey and Landlord agree that the Prime Lease is subject to this Lease in the same manner it was subject to the Main Gillette Lease.

XX. GENERAL PROVISIONS

- a. **Captions; Attachments; Defined Terms.** The captions of the paragraphs of this Lease are for convenience only and shall not be deemed to be relevant in resolving any question of interpretation or construction of any section of this Lease. Exhibits attached hereto, and addendums and schedules initialed by the parties, are deemed by attachment to constitute part of this Lease and are incorporated herein. The words "Landlord" and "Tenant" as used herein shall include the plural as well as the singular. Words used in neutral gender include the masculine and feminine

and words in the masculine or feminine gender include the neutral. If there be more than one Landlord or Tenant, the obligations hereunder imposed upon Landlord or Tenant shall be joint and several.

- b. **Entire Agreement; Amendment.** This Lease, along with any exhibits and attachments hereto, constitutes the entire agreement among Ramsey, Landlord and Tenant relative to the Premises. Landlord and the Tenant may, from time to time, enter into other agreements not related to this Lease. This Lease and the exhibits and attachments may be altered, amended, or revoked only by an instrument in writing signed by Ramsey, Landlord and Tenant (except in the circumstances described in Section I.e.). Ramsey, Landlord and Tenant agree hereby that all prior or contemporaneous written or oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Lease to the extent the subject matter of such agreements is covered by this Lease.
- c. **Severability.** If any term or provision of this Lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforceable to the fullest extent permitted by law.
- d. **Costs of Suit.** If Tenant or Landlord shall bring any action for any relief against the other, declaratory or otherwise, arising out of this Lease, including any suit by Landlord for the recovery of rent or possession of the Premises due to Tenant's default, the losing party shall pay the successful party a reasonable sum for attorney's fees which shall be deemed to have accrued on the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Should Landlord, without fault on Landlord's part, be made a party to any litigation instituted by Tenant or by any third party against Tenant, or by or against any person holding under or using the Premises by license of Tenant, or for the foreclosure of any lien for labor or material furnished to or for Tenant or any such other person or otherwise arising out of or resulting from any act or transaction of Tenant or of any such other person, Tenant covenants to defend Landlord and to save and hold Landlord harmless from any judgment rendered against Landlord or the Premises or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by Landlord in or in connection with such litigation. Should Tenant, without fault on Tenant's part, be made a party to any litigation instituted by Landlord or by any third party against Landlord, or by or against any person holding under or using the Premises by license of Landlord, or for the foreclosure of any lien for labor or material furnished to or for Landlord or any such other person or otherwise arising out of or resulting from any act or transaction of Landlord or of any such other person, Landlord covenants to defend Tenant and to save and hold Tenant harmless from any judgment rendered against Tenant or the Premises or any part thereof, and all costs and expenses, including reasonable attorney's fees, incurred by Tenant in or in connection with such litigation.

This Section shall not apply to any action, suit or litigation relating to rights in or possession of other premises in Regions Hospital or to shared services between the Landlord and Tenant, or to any action, suit or litigation involving Landlord or Tenant where the claim against Landlord or Tenant does not arise by reason of such party's status as a landlord or tenant under this Lease.

- e. **Time; Joint and Several Liability.** Time is of the essence of this Lease and each and every provision hereof. All the terms, covenants and conditions contained in this Lease to be performed by either party, if such party shall consist of more than one person or organization, shall be deemed to be joint and several, and all rights and remedies of the parties shall be cumulative and nonexclusive of any other remedy at law or in equity.
- f. **Binding Effect; Choice of Law.** The parties hereto agree that all the provisions hereof are to be construed as both covenants and conditions as though the words importing such covenants and conditions were used in each separate paragraph hereof; subject to any provisions hereof restriction transfer or subletting by Tenant, all of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. This Lease shall be governed by the laws of the State of Minnesota.
- g. **Waiver.** No covenant, term or condition or the breach thereof shall be deemed waived, except by written consent of the party against whom the waiver is claimed, and any waiver or the breach of any covenant, term or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term or condition.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the Landlord and Tenant have executed this lease effective as of the day and year first written above.

RAMSEY COUNTY, MINNESOTA

By: _____
Chair, Ramsey County
Board of Commissioners

And: _____
Chief Clerk, Ramsey County
Board of Commissioners

Recommended for approval:

Jean R. Kuegel
Department Director

By: 9-20-2020

Approved as to form:

Amey KD Schmidt
Assistant County Attorney

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this ____ day of _____, 201_, by _____ and _____, respectively the Chair and Chief Clerk of the RAMSEY COUNTY BOARD OF COMMISSIONERS on behalf of RAMSEY COUNTY, MINNESOTA.

Notary Public

REGIONS HOSPITAL

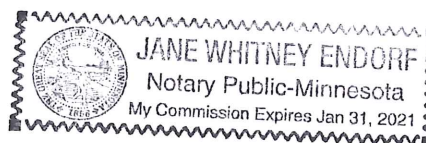
By: Megun Remark Heidi Conrad
President and CEO

And: Heidi Conrad
Vice President and CFO

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 16th day of September, 2010, by Megun Remark and Heidi Conrad, respectively the President and Chief Executive Officer and the Vice President and Chief Financial Officer of REGIONS HOSPITAL, a Minnesota non-profit corporation, on behalf of the corporation.

Jane Whitney Endorf
Notary Public



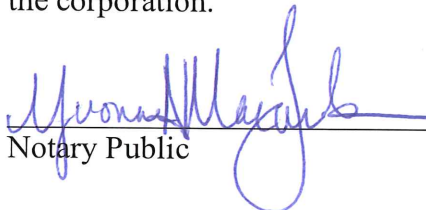
GILLETTE CHILDREN'S SPECIALTY HEALTHCARE

By: 
President and CEO

And: 
Vice President and CFO

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

The foregoing instrument was acknowledged before me this 15th day of September, 2020, by Barbara Joers and Patrick Nolan, respectively the President and Chief Executive Officer and the Vice President and Chief Financial Officer of GILLETTE CHILDREN'S SPECIALTY HEALTHCARE, a Minnesota non-profit corporation, on behalf of the corporation.


Notary Public

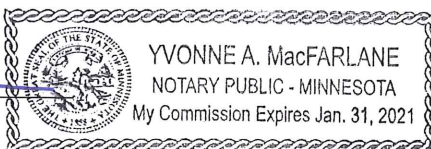


EXHIBIT A

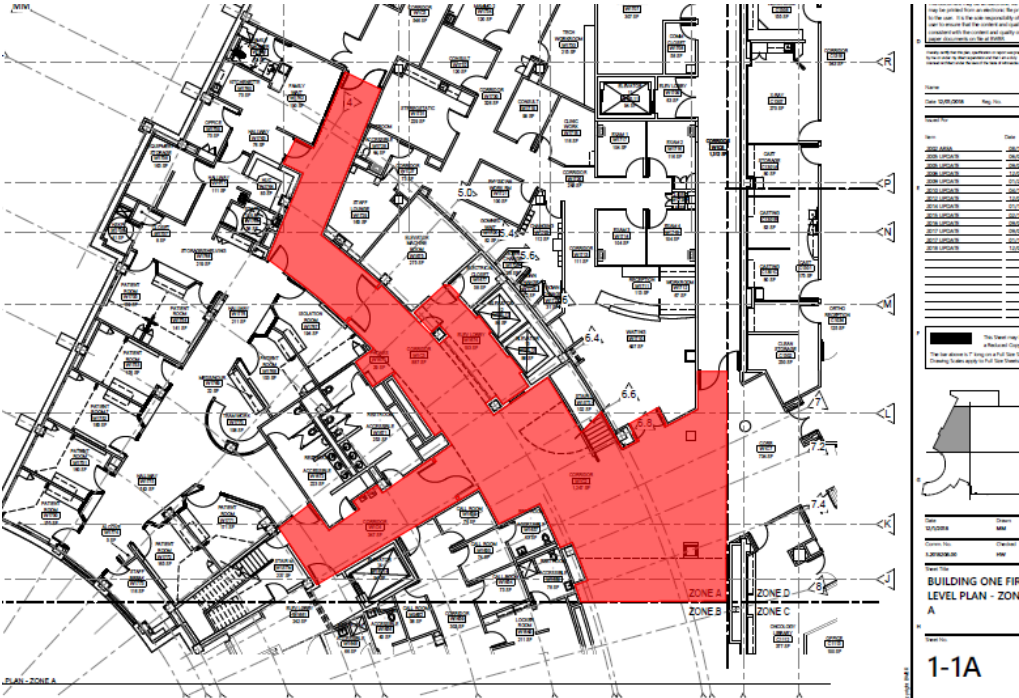
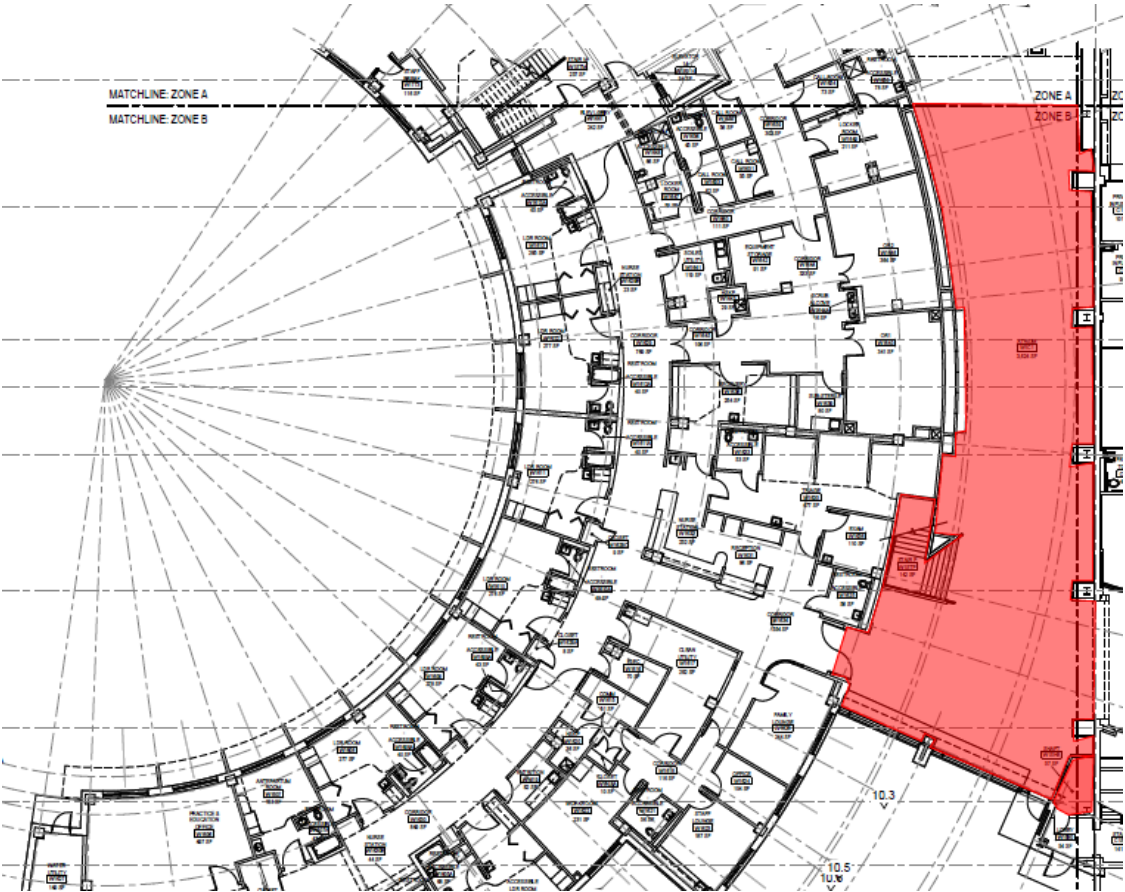
EXHIBIT B

All elevators, elevator shafts, and stairwells and all of the spaces shown in red on the following floor plans.

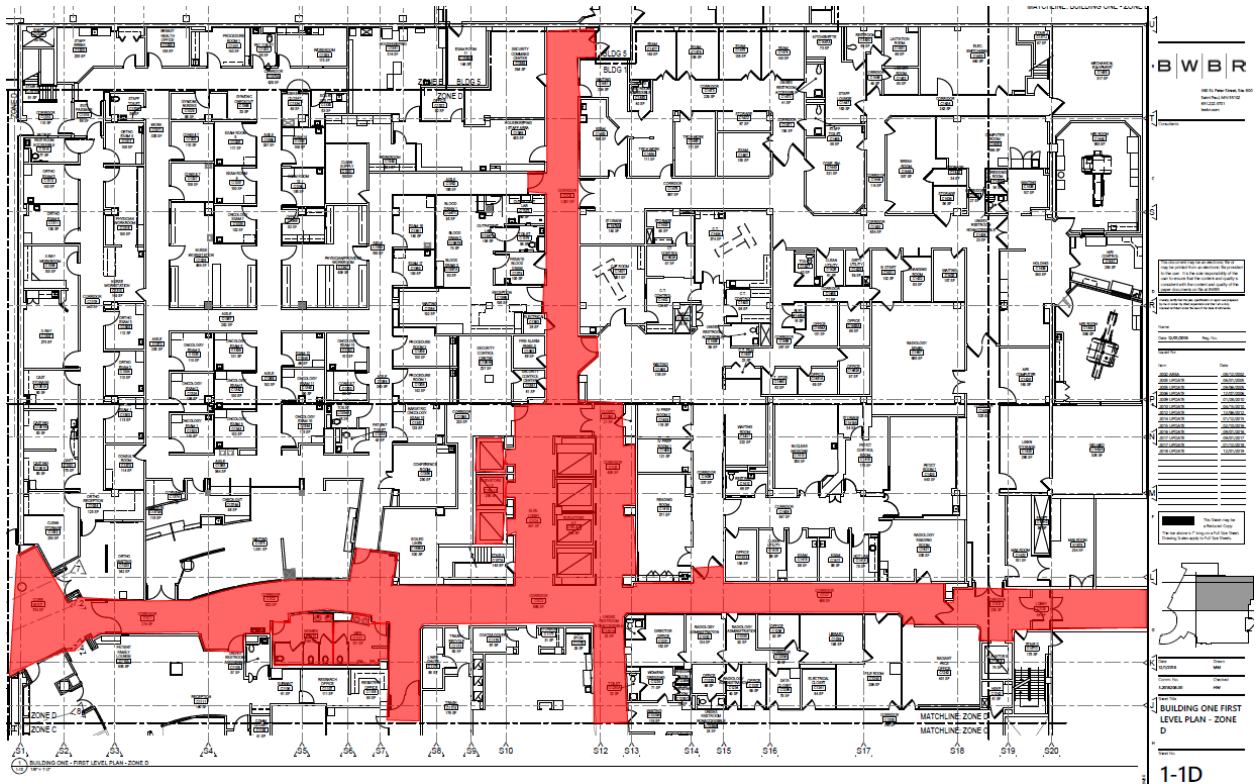
West Section First Floor: Elevators & Restrooms



Central/West Section 1st floor Corridors:



Central Section 1st floor Corridors & Restrooms:

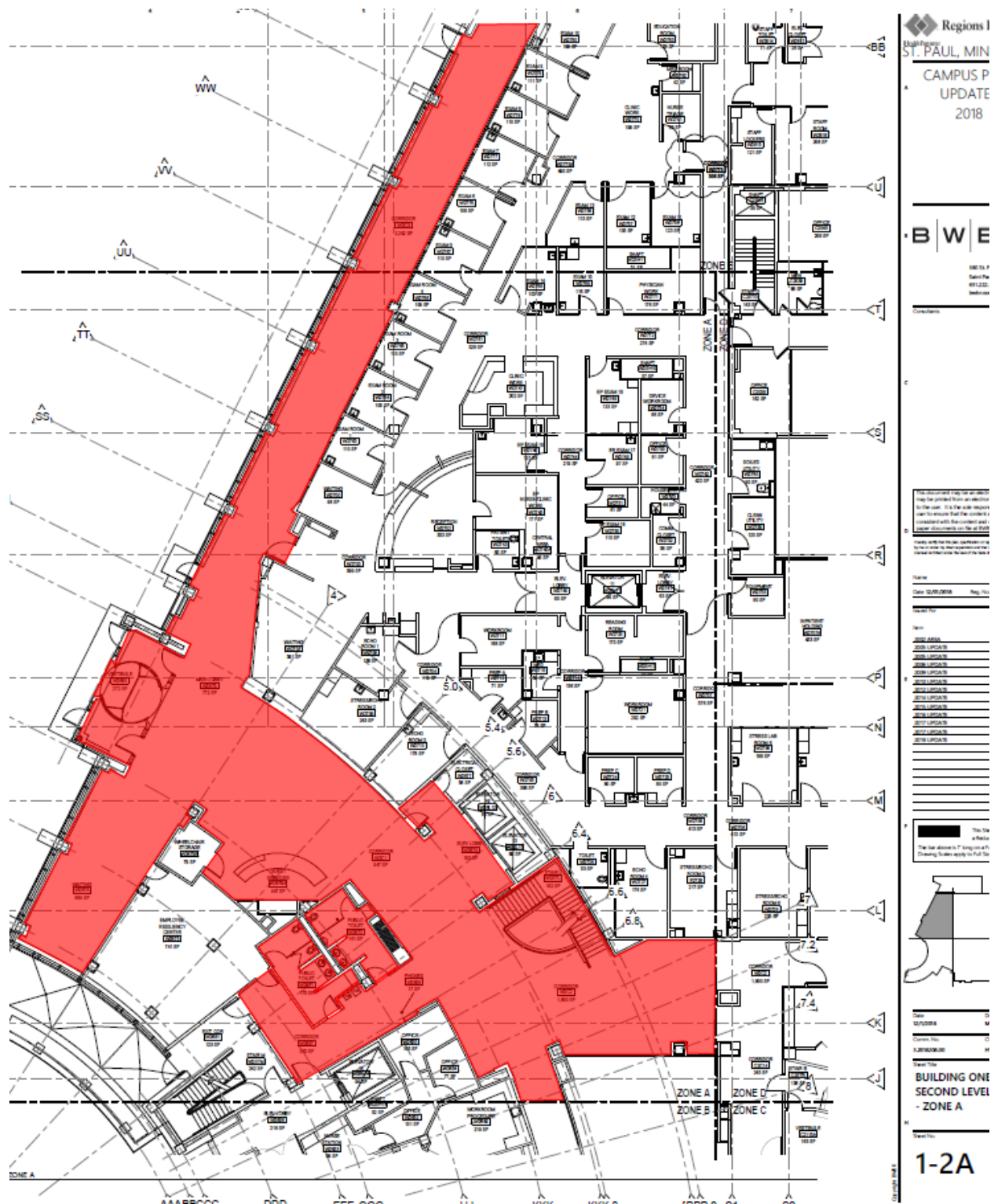


1480160



This is a detailed architectural floor plan of Building 8, Zone A. The building has a curved, semi-circular layout. The plan shows various rooms, corridors, and structural elements. A red curved area is highlighted on the right side of the building. The plan includes labels for zones (A, B, C, D), rooms (e.g., 10.1, 10.2, 10.3), and structural elements (e.g., stairs, elevators). A red curved area is highlighted on the right side of the building.

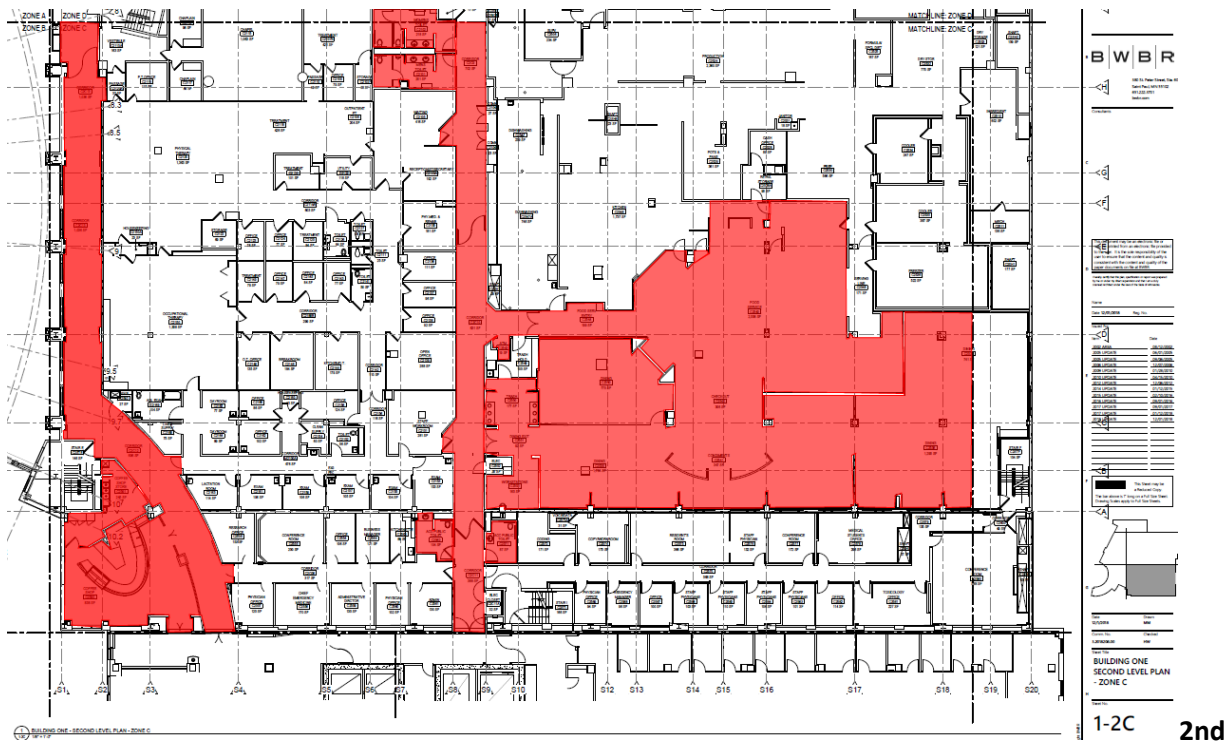
2nd Floor West Section Corridors, Lobbies, & Restrooms:



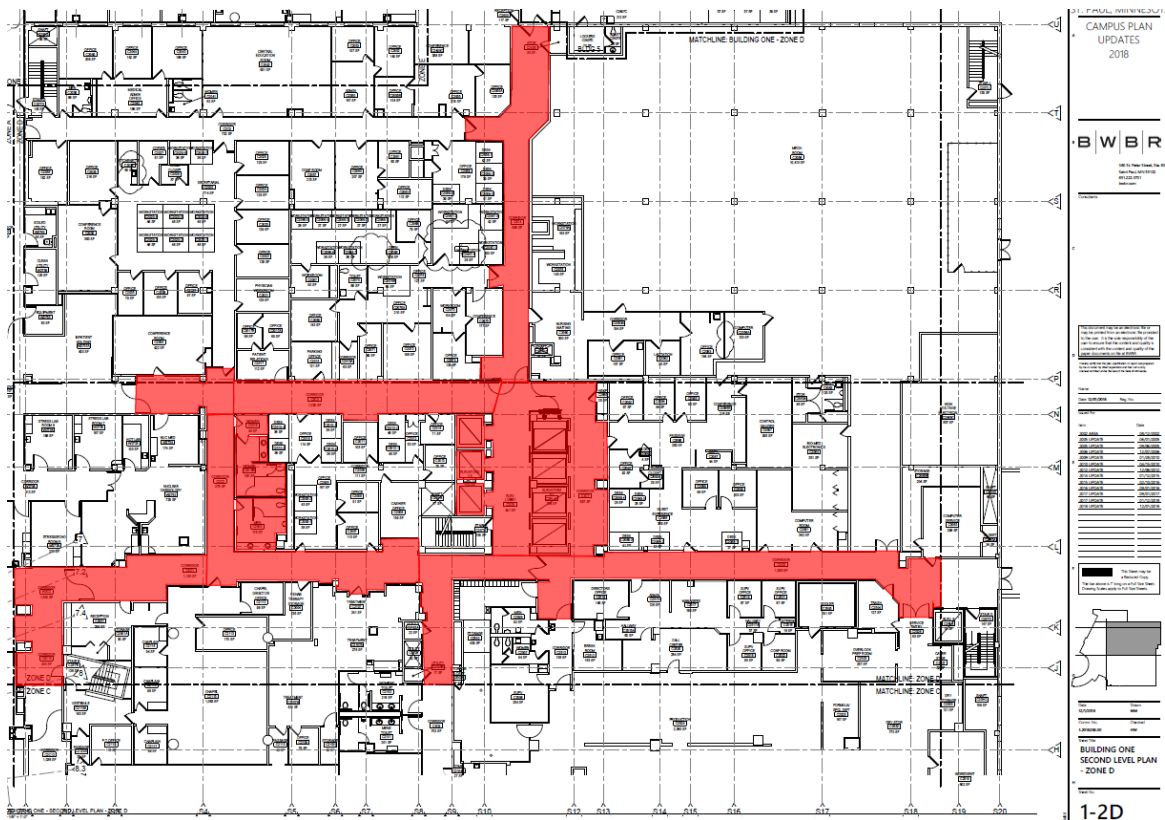
2ND Floor Central Section Corridors, Lobbies and Elevators:



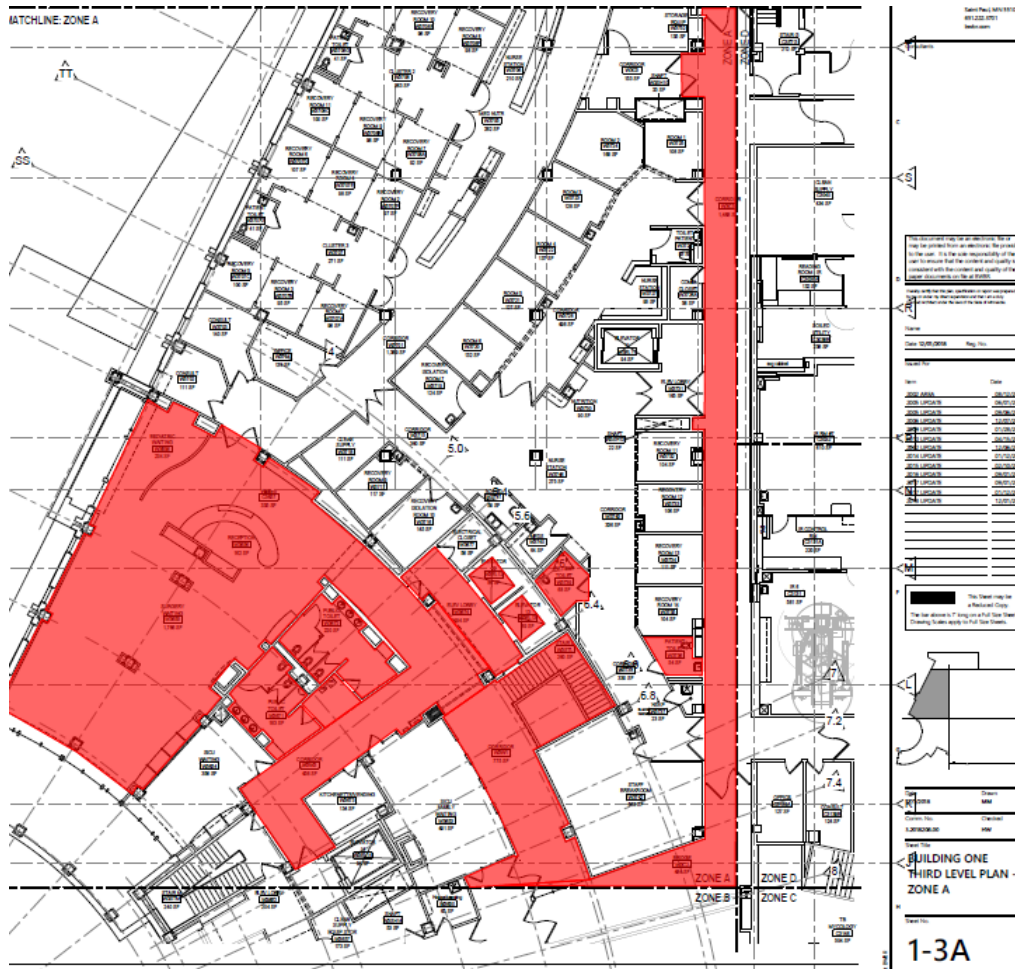
2nd Floor Central Section Corridors, Restrooms, & Dietary(Cafeteria and Café):



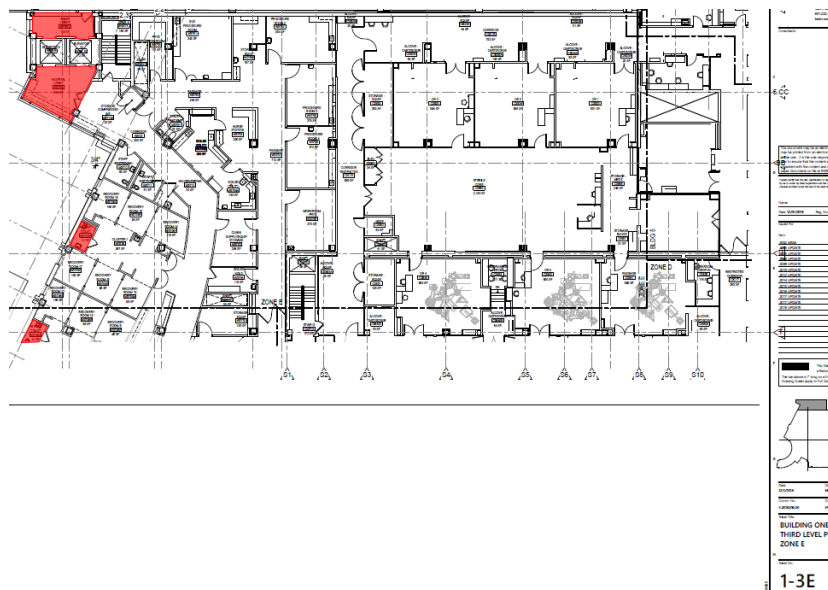
2nd Floor Central Section Corridors & Restrooms:

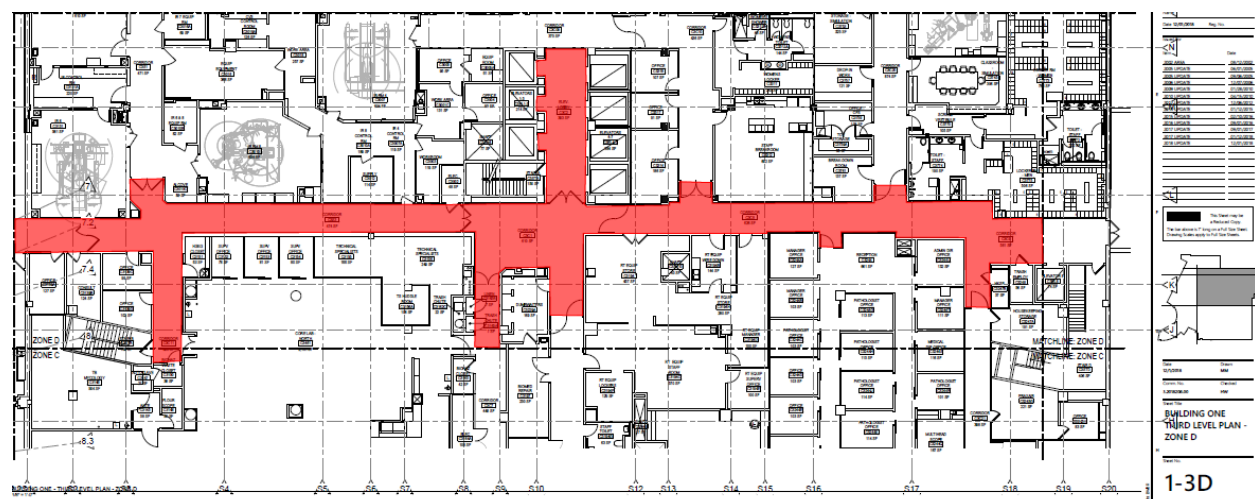


West Section 3rd Floor Corridors, Lobbies, & Restrooms:



West Section: 3rd Floor Ramp Elevator Lobbies and Restrooms:



[illegible]

Architectural floor plan of the seventh level of a building. The plan features a central red corridor that runs vertically and horizontally, forming a cross shape. This corridor is surrounded by four large circular rooms, each containing various furniture and equipment. The plan is overlaid on a grid system. A north arrow is located in the top right corner. A legend in the bottom right corner identifies symbols for doors, windows, and other architectural elements. The plan is titled "BUILDING ONE SEVENTH LEVEL PLAN" and includes a scale bar.

100-15-1000-01
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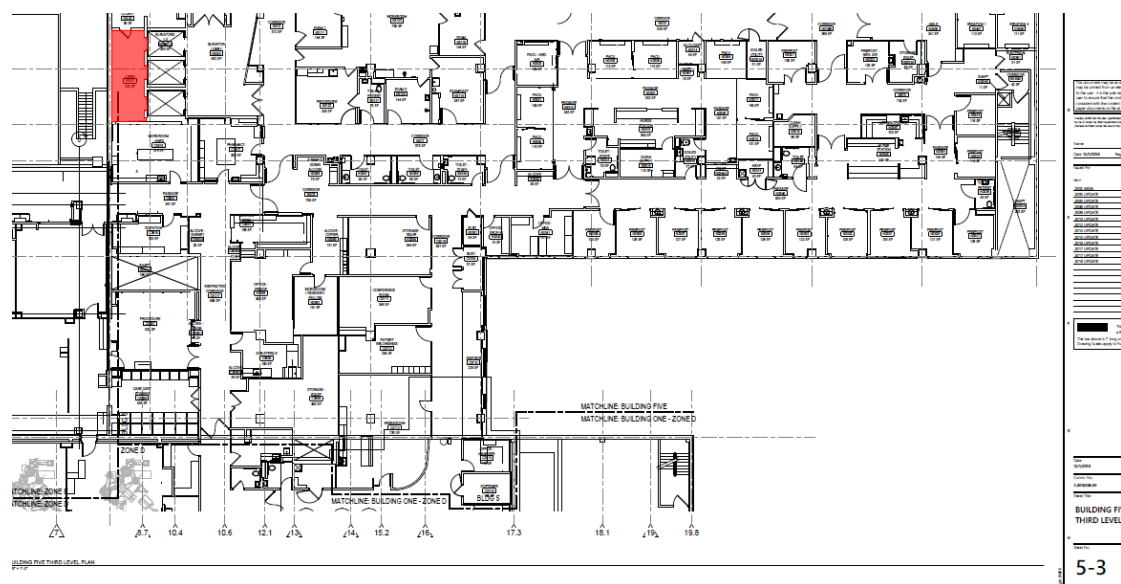
Architectural floor plan of Building Two, First Level Plan. The plan shows a large central corridor highlighted in red, connecting various rooms and areas. Key areas include 'MATCHLINE BUILDING TEN' and 'MATCHLINE BUILDING THREE' at the top, and 'MATCHLINE BUILDING TWO' and 'MATCHLINE BUILDING THREE' at the bottom. The plan includes numerous rooms, corridors, and structural elements like walls, doors, and stairs. A legend on the right side provides a key for the plan, including symbols for walls, doors, and stairs.

15-1

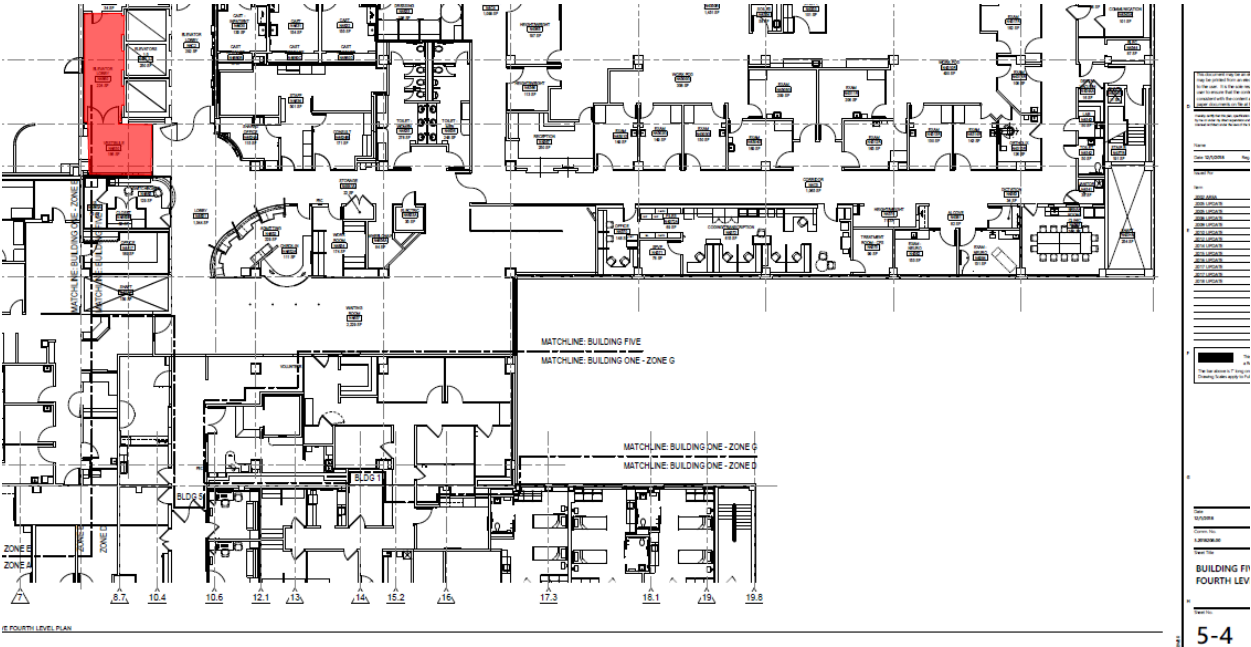
North Building-2ND Floor Corridors, Lobbies & Restrooms:



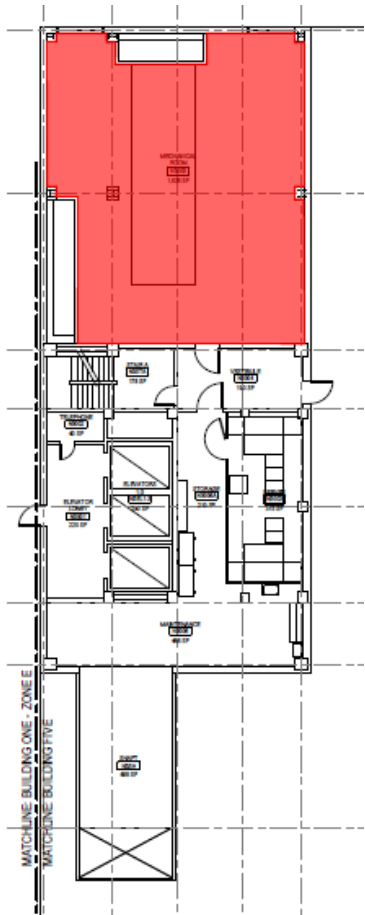
North Building-3RD Floor Lobby:



North Building- 4th Floor Lobby:



North Building- 4th Floor Lobby:

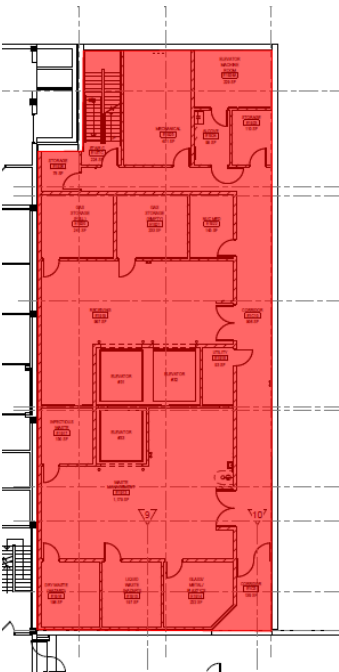


Architectural floor plan of the second level of Building Eight, Zone A. The plan shows a large red-shaded area representing the main floor space, with various rooms, corridors, and a staircase. A north arrow is located in the bottom right corner. The plan is labeled "BUILDING EIGHT SECOND LEVEL PL - ZONE A" and "8-2A".

South Section-3RD Floor Corridors:



Loading Dock- 1ST floor:



Loading Dock-2nd Floor:

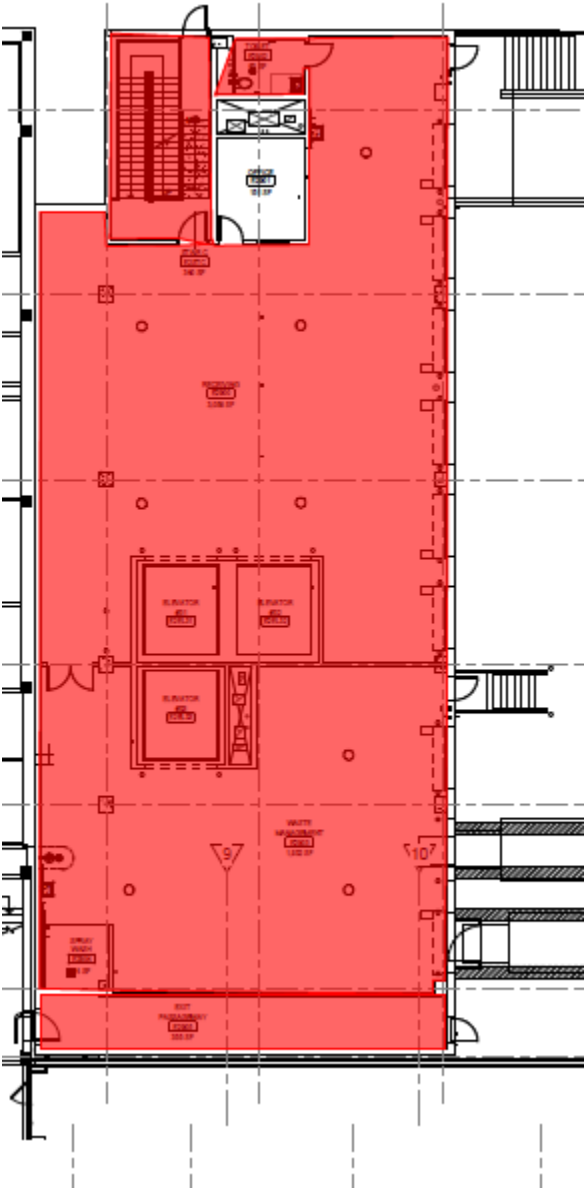


EXHIBIT C

EXHIBIT D

Board of Commissioners

Request for Board Action

Item Number: 2020-292

Meeting Date: 10/6/2020

Sponsor: Property Management

Title

Public Health Building at 555 Cedar Design-Build Project and Agreement with Kraus-Anderson for Part 1 Design-Build services.

Recommendation

1. Accept and approve the Public Health Facility Design-Build Project budget and financing plan for the Public Health Building, 555 Cedar Street, Saint Paul, Minnesota, 55101, in the amount of \$2,168,750.
2. Authorize the County Manager to account for the Public Health Facility Design-Build Project as a project budget in the Property Management budget.
3. Approve the selection of, and agreement with, Kraus-Anderson Construction Company, 501 South Eighth Street, Minneapolis, Minnesota 55404, for Part 1 Design-Build services for the Public Health 555 Cedar Street Auditorium Renovation Project, for the period of October 7, 2020 through December 16, 2020, in the amount of \$14,750.
4. Authorize the Chair and Chief Clerk to execute the Part 1 Design-Build agreement.
5. Authorize the County Manager to execute change orders and amendments to the Agreement provided the amounts are within available funding.

Background

Saint Paul - Ramsey County Public Health provides an array of services at the Public Health facility located at 555 Cedar Street in downtown Saint Paul. Services that are provided at this location include Immunizations, Perinatal Hepatitis B Prevention, Sexual Health, and Tuberculosis Control, Sexual Violence Services, Administration, Vital Records, Central Registration, Health Records, Laboratory, HouseCalls, Billing and Accounting. The facility is on the Green Line and has a small parking lot, which allows residents convenient access to all services.

The auditorium space at 555 Cedar, last used as a WIC clinic, has been vacant since 2015. Due to increased staffing at 555 Cedar to manage multi-drug resistant tuberculosis, as well as program expansion for clients in the areas of sexual violence, a syringe services program and increased outreach focused on HIV prevention, there is a need for more service space.

An auditorium renovation project was developed. The work includes repairs to the corroded existing structural steel and joist framed roof structure, analysis of the roof, replacement of the air handling equipment serving the auditorium, general finishing of the space (ceiling tile system, LED lighting, gypsum board perimeter walls, carpet, power and data distribution), and furniture, fixtures, and equipment.

On February 7, 2019, Saint Paul - Ramsey County Public Health and Property Management Departments presented the auditorium project ("Project") to the Capital Improvements Program Advisory Committee, which affirmed the project scope, cost and funding. The Project is in alignment with Ramsey County's Strategic Facilities Plan and "Resident First" approach. On March 26, 2019, the County Board approved the auditorium project budget in the amount of \$600,000.

Prior to proceeding with the auditorium project, a facility condition analysis was completed on this two-story masonry and steel structure that was constructed in 1956. The analysis confirmed that the facility's rooftop mechanical equipment, rooftop ductwork, and roof systems are at the end of their useful life and need replacement. Funds for work on the roof and mechanical systems, estimated at \$1,568,750, are included in the approved 2020-2021 Capital Improvement Project - Building Improvement Funds (CIP Building Improvements).

Since the replacement of these end of life building components impacts the auditorium project, Property Management made the decision to combine the two projects into one design-build solicitation for efficiency and potential cost reductions.

A Request for Proposals was issued on May 20, 2020. Below is the competitive solicitation summary:

Request for Proposals (RFP) Title	Ramsey County Public Health Facility Design-Build Project
RFP Release Date	May 20, 2020
RFP Response Date	June 25, 2020
Number of Contractors Notified	539
Respondents	19
Proposal Evaluation Committee	Public Health Division Director, Public Health Division Manager, Property Management Project Manager, Property Management Senior Building Manager, Property Management Building Services Manager
RFP Evaluation criteria	Contractor Qualifications, Key Personnel Qualifications, Project Understanding and Approach, Cost, CERT SBE Utilization
Contractor Recommended	Kraus-Anderson Construction Company

The evaluation team evaluated the proposals based on the criteria identified in the solicitation and is recommending Kraus-Anderson Construction Company for the Ramsey County Public Health Facility Design-Build Project.

County Goals (Check those advanced by Action)

☒ Well-being

☐ Prosperity

☐ Opportunity

☐ Accountability

Racial Equity Impact

The racial equity impact of this Project is not fully known. The Project will include workforce inclusion goals of 32% minority, 20% women, and 32% certified small businesses (SBEs) found in the CERT directory recognized by the County as the acceptable source for SBE subcontractors and suppliers in conformance with the County's approved policy on Workforce Inclusion and Contracting goals. 80% of the client visits to Public Health clinical programs are individuals who are black, indigenous, and people of color. These building improvements will allow for continued and enhanced services in a safe, centrally located building with easy access to all modes of transportation.

Community Participation Level and Impact

The Capital Improvement Program Citizens' Advisory Committee (CIPAC), made up of Ramsey County residents appointed by the County Board, reviews the projects submitted for the Building Improvement Fund. This solicitation was issued in accordance the County's procurement policies and procedures. The information about this action is available through the County Board documentation that is published on the County's

website:

<https://www.ramseycounty.us/your-government/leadership/board-commissioners/board-meetings-information>.

☒ Inform

☒ Consult

☐ Involve

☐ Collaborate

☐ Empower

Fiscal Impact

If approved, funding for this project will consist of \$600,000 from the 2015 Public Health 555 Cedar Street Auditorium Renovation Project budget, \$1,100,000 will come from the 2020 Capital Improvement Plan County Building Improvements project and \$468,750 will come from the prior year's Property Management Building Improvements projects.

County Manager Comments

County Board approval is required for design-build contracts resulting from Requests for Proposal (RFPs) over \$175,000. The renovation of this space provides the County with flexibility to move forward with its strategic priority to enhance resident access and community investment through improved service delivery and accessible county facility locations. The renovation will also increase employee morale, help maintain employee retention, aid in attracting new talent, and allow for use of appropriate technology.

Last Previous Action

On December 17, 2019, the Ramsey County Board of Commissioners approved the 2020-2021 Capital Improvement Project (B2019-323B).

Attachments

1. Professional Services Contract-Kraus-Anderson Construction Company
2. Financing Plan



Ramsey County Contract Summary

Contract Number: PRMG000084

Contractor Name: KRAUS - ANDERSON CONST CO
Vendor ID: 0000035350
SBE SVN/DUNS ID/MN VA:

Department: Property Management

Contract Authority / Resolution: Resolution
Resolution #: TBD

Good/Service Type: Design/Build

Contract Description: Public Health Building 555 Cedar Design/Build Phase I

Contract Type: Design-Build Phase I

Funding Notes (optional):

Original Contract Begin Date: October 7, 2020
Original Contract End Date: December 16, 2020

Comments:

**AGREEMENT BETWEEN OWNER AND DESIGN/BUILDER FOR THE
PUBLIC HEALTH BUILDING AT 555 CEDAR PROJECT
PART 1 AGREEMENT**

- 1. DESIGN/BUILDER**
- 2. OWNER**
- 3. OWNERSHIP AND USE OF DOCUMENTS AND ELECTRONIC DATA**
- 4. TIME**
- 5. PAYMENTS**
- 6. DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION**
- 7. BASIS OF COMPENSATION**
- 8. OTHER CONDITIONS AND SERVICES**

AGREEMENT is made

BETWEEN the Owner:
Ramsey County
220 City Hall/Court House
15 West Kellogg Boulevard
Saint Paul, MN 55102

and the Design/Builder:
Kraus-Anderson Construction Company
501 South Eighth Street
Minneapolis, MN 55404

For the following Project:

CONSTRUCTION MANAGER/DESIGN TEAM FOR DESIGN, ENGINEERING AND CONSTRUCTION SERVICES TO REMODEL THE EXISTING PUBLIC HEALTH BUILDING AT 555 CEDAR AVENUE, SAINT PAUL, MINNESOTA 55101, as described in the Owner's Request for Proposals ("RFP") # PRMG0000021523 - RAMSEY COUNTY PUBLIC HEALTH FACILITY DESIGN-BUILD PROJECT, including addenda.

The Design/Builder will provide services in two (2) phases:

Part 1: Programming, schematic design, design development and cost estimating leading to a Guaranteed Maximum Price. See attached **Exhibit A** --Scope of Work, from the Owner's RFP # PRMG0000021523 - Ramsey County Public Health Facility Design-Build Project as modified and agreed to by both the Owner and Design Builder, attached hereto and made a part of this Part 1 Agreement; and attached **Exhibit B** --Design/Builder Services Proposal, attached hereto and made part of this Part 1 Agreement, for a description of Part 1 services.

Part 2: Balance of design, construction documents, bidding, construction services, and Project closeout. See **Exhibits A and B** for descriptions of Part 2 services. Part 2 services will be provided using the Design/Build delivery method.

The architectural, landscape architectural, civil, structural, mechanical, and electrical engineering services for the Services described in Article 1 of this Part 1 Agreement will be provided by the following persons or entities lawfully licensed to practice architecture or engineering in the State of Minnesota,

both of which shall be referred to as the "Architect" in this Part 1 Agreement and the Part 2 Agreement with respect to their respective scopes.

Name and address	Registration Number	Relationship to Design/Builder
Wold	41467	Subcontractor
To Be Determined		Mechanical Electrical Plumbing Consultant

The Owner and the Design/Builder agree as set forth below.

TERMS AND CONDITIONS -- PART 1 AGREEMENT

ARTICLE 1 DESIGN/BUILDER

§ 1.1 SERVICES

§ 1.1.1 Programming, schematic design, design development, project scheduling and cost estimating leading to a Guaranteed Maximum Price for Part 2 of the Project.

§ 1.2 RESPONSIBILITIES

§ 1.2.1 Design services required by this Part 1 Agreement shall be performed by qualified architects and other design professionals. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Design/Builder. Prior to the termination of the services of the Architect or any other design professional designated in this Part 1 Agreement, the Design/Builder shall identify to the Owner in writing another architect or design professional with respect to whom the Owner has no reasonable objection, who will provide the services originally to have been provided by the Architect or other design professional whose services are being terminated. The Design/Builder shall be responsible for any additional costs associated with the other architectural or design professionals.

§ 1.2.2 The agreements between the Design/Builder and the persons or entities identified in this Part 1 Agreement, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon request.

§ 1.2.3 Construction budgets shall be prepared by qualified professionals, cost estimators or contractors retained by and acting in the interest of the Design/Builder.

§ 1.2.4 The Design/Builder shall be responsible to the Owner for acts and omissions of the Design/Builder's employees, subcontractors and their agents and employees, including the Architect and other design professionals, performing any portion of the Design/Builder's obligations under this Part 1 Agreement.

§ 1.2.5 If the Design/Builder believes or is advised by the Architect or by another design professional retained to provide services on the Project that implementation of any instruction received from the Owner would cause a violation of any applicable law, the Design/Builder shall notify the Owner in writing. Neither the Design/Builder nor the Architect shall be obligated to perform any act which either believes will violate any applicable law.

§ 1.2.6 Nothing contained in this Part 1 Agreement shall create a contractual relationship between the Owner and any person or entity other than the Design/Builder.

§ 1.2.7 The standard of care for all design professional services performed to execute the Work shall be the care and skill ordinarily used by members of the design professional practicing under similar conditions at the same time and locality of the Project.

§ 1.3 BASIC SERVICES

§ 1.3.1 The Design/Builder shall provide a preliminary evaluation of the Owner's program and Project budget requirements, each in terms of the other, as described in Exhibits A and B and as identified herein.

§ 1.3.2 The Design/Builder shall visit the site, become familiar with the local conditions, and correlate observable conditions with the requirements of the Owner's program, schedule, and budget.

§ 1.3.3 The Design/Builder shall review laws applicable to design and construction of the Project, correlate such laws with the Owner's program requirements, and if the Design/Builder is aware of any violations, advise the Owner if any program requirement may cause a violation of such laws. Necessary changes to the Owner's program shall be accomplished by appropriate written modification or disclosed as described in Section 1.2.2.

§ 1.3.4 The Design/Builder shall support the Owner's efforts to submit, file, and obtain on behalf of the Owner: all easements, zoning variances and legal authorizations regarding site utilization where essential to the execution of the Owner's program; and support the Owner's efforts to obtain the **Conditional Use Permit, historic district reviews, and licensures** needed for the Project.

§ 1.3.5 The Design/Builder will manage a "Participatory Planning Process" that is centered around a Core Planning Group ("CPG") of key decision makers from the Design/Builder's Team, Property Management, and the tenant department, who will work to evaluate design options using criteria established by the CPG. The following tasks and activities are included in these services, which will be rendered in a series of meetings which include at a minimum:

1. Facilitate and coordinate a Pre-design Phase Meeting with the Owner's Project Team to:
 - Identify key individuals
 - Establish a communication procedure
 - Determine and outline Ramsey County goals
 - Discuss the project schedule and methodology
 - Confirm critical dates and events
2. Facilitate and coordinate Project Planning and Programming
 - Establish functional needs / use of interior spaces
 - Identify and document function operation needs of space to inform Schematic Design Process
3. Facilitate and coordinate a Schematic Design Phase Meeting with the Owner's Project Team to:
 - Discuss design objectives
 - Discuss the anticipated interior/exterior demolition and reconstruction and new finishes
 - Discuss the anticipated mechanical, electrical, and roof systems changes
 - Determine if the Project budget is consistent with preferences for reconstruction and engineering system modifications which will include:
 - a. Discussion of potential bid alternatives and options
 - b. Review the proposed schedule
 - c. Preparation of plans and sections along with outline specifications to confirm opinion of probable costs for approval.
4. Facilitate and coordinate Design Development Phase Meeting with the Owner's Project Team to:
 - Revisit items mentioned during the Schematic Design phase and secure approvals

- Complete a room-by-room review with the CPG and end users
- Assign location for all equipment
- Perform a constructability review for quality control purposes
- Provide progress documents for review

5. Facilitate and coordinate GMP Presentation Meeting with the Owner's Project Team to:

- Present the refined design along with a Guaranteed Maximum Price (GMP), and Construction Schedule

§ 1.3.6 At the conclusion of the Part 1 services, the Design/Builder shall submit to the Owner a Proposal, including the Design Development Documents; a statement of the proposed Guaranteed Maximum Price based on the Design Development Documents; a statement of the Small Business Enterprises ("SBE") utilization and labor goals for Part 2 services that have been approved by the Owner; and a proposed schedule for Part 2 Project Services that shows Substantial Completion of the Project no later than October 30, 2021. The Design Development Documents shall consist of drawings, outline specifications or other documents to a percentage completion that is adequate for the Design/Builder to submit a Guaranteed Maximum Price for Part 2 of the Project. The Owner reserves the right to enter into a Part 2 Agreement with the Design/Builder; or to enter into a Part 2 Agreement with a third party if the Owner and the Design/Builder are unable to reach agreement on a Part 2 Agreement within a reasonable period of time after submission of the above-identified documents by the Design/Builder, as determined by the Owner.

§ 1.4 ADDITIONAL SERVICES

§ 1.4.1 The Additional Services described under this Section 1.4 shall be provided by the Design/Builder and paid for by the Owner only if authorized or confirmed in writing by the Owner.

§ 1.4.2 Making revisions in the final, Owner-approved Design Development Documents, budget or other documents when such revisions are:

- 1.4.2.1 inconsistent with approvals or instructions previously given by the Owner, including revisions made necessary by adjustments in the Owner's program, Project schedule or Project budget;
- 1.4.2.2 due to material changes required as a result of the Owner's failure to render decisions within the time periods specified in this Part 1 Agreement.

ARTICLE 2 OWNER

§ 2.1 RESPONSIBILITIES

§ 2.1.1 The Owner shall provide supplemental information in a timely manner regarding changes in the requirements for the Project as described in **Exhibit A**, --Scope of Work, from the Owner's RFP # PRMG0000021523.

§ 2.1.2 The Owner designates Kent Dirks or designee as its representative authorized to act on the Owner's behalf with respect to the Project. The Owner or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Design/Builder in order to avoid unreasonable delay in the orderly and sequential progress of the Design/Builder's services. The Owner may obtain independent review of the documents by a separate architect, engineer, contractor, or cost estimator under contract to or employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Design/Builder's services.

§ 2.1.3 The Owner shall disclose, to the extent known to the Owner, the results and reports of prior tests, inspections or investigations conducted for the Project involving: structural or mechanical systems; chemical, air and water pollution; hazardous materials; or other environmental and subsurface conditions. The Owner shall disclose all information known to the Owner regarding the presence of pollutants at the Project's site.

- § 2.1.4 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary at any time for the Project, including such auditing services as the Owner may require to verify the Design/Builder's Applications for Payment, except in relation to any dispute between the parties.
- § 2.1.5 The Owner shall communicate with persons or entities employed or retained by the Design/Builder through the Design/Builder, unless otherwise directed by the Design/Builder.
- § 2.1.6 The Owner shall promptly obtain easements, zoning variances and legal authorizations regarding site utilization where essential to the execution of the Owner's program. Owner shall obtain Conditional Use Permit as needed for the Project.
- § 2.1.7 The Owner shall provide all necessary access to the project site, including any easements, land rights, or other land agreements.

ARTICLE 3 OWNERSHIP AND USE OF ELECTRONIC DATA AND DOCUMENTS

§ 3.1

- § 3.1.1 The Owner owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works created under this Part 1 Agreement and for which the Design/Builder has received Final Payment. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works made for hire".
- § 3.1.2 "Electronic Data" means any and all items resulting from the use of any software program stored in digital format on hard disks, floppy disks, zip drives, CD-ROM discs, magnetic tapes of all types and kinds, microfiche, punched cards, punched tape, computer chips (including but not limited to EPROM, PROM, ROM and RAM of any kind) or in any other vehicle for digital data storage or transmittal, including labels appended to or associated with any physical storage device associated with each original and each copy.
- § 3.1.3 "Works" means all inventions, improvements, discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks conceived, created or originated by the Design/Builder, its employees, agents, and subcontractors, either individually or jointly with others in the performance of this contract that are actually provided to the Owner as deliverables, that are deliverables in draft form or still "in-progress", or that are expected to become part of the deliverables. "Works" includes "Documents". "Documents" are comprised of written and electronic forms of deliverables created under the terms of this Part 1 Agreement, and of Electronic Data including the originals of any data or databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, disks, or other materials, whether in tangible or electronic forms, prepared by the Design/Builder, its employees, agents or subcontractors, in the performance of services under the terms of this Agreement.
- § 3.1.4 The Documents actually provided to the Owner as Deliverables, that are Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables will be the exclusive property of the Owner upon payment in accordance with the provisions of this Part 1 Agreement, and all such Documents must be immediately provided to the Owner by the Design/Builder upon termination of this Part 1 Agreement or upon request. For Deliverables in draft form or still "in-progress", or that are expected to become part of the Deliverables, "Final Payment" means payment of the cost for the services provided to create the Documents to the then-current stage of completion. The Design/Builder assigns all right, title, and interest it may have in the Work to the Owner for which it has received Final Payment.

- § 3.1.5 The Design/Builder must, at the request of the Owner, execute all reasonable papers and perform all other reasonable acts necessary to transfer or record the Owner's ownership interest in the Documents. The Documents shall be submitted to the Owner, upon request, prior to the Owner making Final Payment to the Design/Builder.
- § 3.1.6 Documents in electronic form shall be provided to the Owner in both native format and PDF. The Design/Builder may retain copies of the Documents only for purposes of performance under the terms of this Part 1 Agreement and for its records as part of the Project file and may not use any such Documents for any other purposes without the prior written consent of the Owner except that the Architect may reuse details and specifications contained in the Works and Documents which have been developed by the Architect as the Architect's standards for similar public projects.
- § 3.2 Whether or not the Part 2 Agreement is executed, the Owner shall have the right to use the drawings, specifications, and other documents and electronic data furnished by the Design/Builder without the written permission of the Design/Builder. Such use shall be at the Owner's risk.

ARTICLE 4 TIME

- § 4.1 Within ten (10) business days of execution of this Part 1 Agreement, the Design/Builder shall prepare a Project Schedule for the performance of the Basic Services, which shall not exceed the time limits contained in Exhibit A of this Part 1 Agreement; which allows for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project; and which shows completion of all services under this Part 1 Agreement within ten (10) weeks of full execution of Part 1 Agreement, as provided in the Owner's Preliminary Project Schedule.
- § 4.2 If, as a result of Force Majeure, the Design/Builder's services under this Part 1 Agreement have not been completed within ten (10) weeks of full execution of Part 1 Agreement, the parties shall mutually agree to either terminate this Part 1 Agreement or to execute a Change Order regarding changes in scope, schedule, and compensation, if any. Failure of the parties to execute a Change Order within ten (10) business days of the above-identified date shall result in automatic termination of this Part 1 Agreement.
- § 4.3 The Design/Builder shall immediately notify the Owner if it determines that it may not meet the required ten (10) week Part 1 services duration, completion date, and advise the Owner of actions it is and will undertake to complete the services within the project schedule so as to meet the required ten (10) week Part 1 services duration, deadline.

ARTICLE 5 PAYMENTS

- § 5.1 There will be no initial payment upon execution of this Part 1 Agreement.
- § 5.2 Payments for Basic Services, Additional Services, and Reimbursable Expenses provided for in this Part 1 Agreement shall be made monthly on the basis set forth in Article 7.
- § 5.3 Each application for payment shall contain the order/contract number, an itemized list of goods or services furnished and dates of services provided, cost per item or service, and total invoice amount
- § 5.4 Payment shall be made within thirty-five (35) calendar days after the date of receipt of a detailed invoice and verification of the charges. At no time will cumulative payments to the Design/Builder exceed the percentage of project completion, as determined by the Owner.
- § 5.5 Interest accrual and disputes regarding payment shall be governed by the provisions of Minnesota Statutes §471.425.

§ 5.6 Invoices shall show applicable Minnesota sales tax of 6.875% separately. Each invoice must include a progress report on achievement of project SBE and Workforce goals. No payment will be made until the invoice and progress report have been approved by the County.

§ 5.7 The Design/Builder may not submit invoices more than once a month.

§ 5.8 Invoices for any goods or services not identified in this Agreement will be disallowed.

§ 5.9 Surety Deposit Requirement for Non-Minnesota Construction Contractors

For any one contract where the anticipated contract value of the construction portion of the contract exceeds \$50,000, the department must withhold 8 percent from payments and send the money to the Minnesota Department of Revenue. The department will hold the funds as surety for the payment of state taxes owed as a result of the contract. For more information about this law, including exceptions to the withholding requirement, visit the [MN Department of Revenue](#) or [Withholding Tax Fact Sheet 12 -- Surety Deposits for Non-Minnesota Construction Contractors](#).

§ 5.10 Reimbursement of expenses will be made consistent with Owner policies. The Owner will reimburse only the actual cost of out of pocket expenses incurred for completion of the project. If reimbursement for travel is permitted, all airfare will first be authorized by the Owner and will be reimbursed at the lowest cost fare available. Lodging, meals, ground transportation and incidentals necessitated by the resulting contract will be reimbursed according to the Internal Revenue Service ("IRS") Regular Per Diem Rate Method or actual cost, whichever is less. Mileage will be reimbursed at the IRS rate in effect at the time of travel.

ARTICLE 6 DISPUTE RESOLUTION -- MEDIATION AND ARBITRATION

§ 6.1 Claims, disputes or other matters in question between the parties to this Part 1 Agreement arising out of or relating to this Part 1 Agreement or breach thereof may be subject to and decided by mediation or arbitration only if agreed to in writing by both parties.

ARTICLE 7 BASIS OF COMPENSATION

The Owner shall compensate the Design/Builder in accordance with Article 5, Payments, and the other provisions of this Part 1 Agreement as described below.

§7.1 COMPENSATION FOR BASIC SERVICES

§7.1.1 FOR PART 1 BASIC SERVICES, compensation shall be as follows:

The Owner shall pay the Design/Builder for services actually rendered on a time and materials basis, at the hourly rates set forth in **Exhibit C**, attached hereto and made a part of this Agreement, which are inclusive of expenses, at actual cost up to a maximum not to exceed sum of \$14,750 for Part 1 services with an assumed construction cost of \$2,034,000. Part 2 fees for the Design/Builder will be included in the GMP accepted by the Owner at the end of Part 1.

§ 7.1.2 PAYMENTS shall be as follows:

Invoices will be forwarded to the Owner by the 10th day of each month for services performed in the previous month. The Owner shall pay invoices (with no retainage), within thirty-five (35) calendar days of receipt of the invoice, provided, however, that the Owner's cumulative payments to the Design/Builder shall at no time exceed the percentage Project completion as determined by the Owner.

§ 7.2 COMPENSATION FOR ADDITIONAL SERVICES

§ 7.2.1 FOR ADDITIONAL SERVICES, compensation shall be as follows:

For Additional Services performed by the Design/Builder and its subcontractors, cost shall be calculated using the hourly rates listed in **Exhibit C**, plus reimbursable expenses at actual cost. The Design/Builder shall not perform Additional Services until the parties have executed a Change Order, including scope, schedule and compensation terms.

§ 7.3 REIMBURSABLE EXPENSES

§ 7.3.1 Part 1 fees shall include all reimbursable expenses.

§ 7.3.2 FOR REIMBURSABLE EXPENSES, compensation shall be a multiple of ONE (1.0) times the amounts expended.

§ 7.4 DIRECT PERSONNEL EXPENSE is defined as the direct salaries of personnel engaged on the Project, and the portion of the cost of their mandatory and customary contributions and benefits related thereto, to include the following: employment taxes and other statutory employee benefits, employee specific insurance, pensions, and similar contributions and benefits. They shall be billed per the billing rates in Exhibit C. The parties acknowledge that the method by which the Design/Builder has established its billing rates for the listed job classifications is not subject to audit.

ARTICLE 8 OTHER CONDITIONS AND SERVICES

§ 8.1 The Basic Services to be performed under this Part 1 Agreement shall be commenced within ten (10) business days of final execution of this Part 1 Agreement, and, subject to authorized adjustments and to delays not caused by the Design/Builder, shall be completed in accordance with the provisions of § 4.1 of this Part 1 Agreement. If the Design/Builder believes that a delay by the Owner in making a timely decision will result in an extension to the Design/Builder's completion date, then the Design/Builder shall notify the Owner and the parties shall agree on the impact, if any, to the Design/Builder's completion date.

§ 8.2 See **Exhibit A** for the Owner's Scope of Work.

§ 8.3 The Owner's General Terms and Conditions are attached hereto and made a part of this Part 1 Agreement as **Exhibit D**.

§ 8.4 It is the intention of the parties to execute a Part 2 Agreement for Part 2 of this Project. However, if the parties are unable to agree on the Project scope and/or the Guaranteed Maximum Price for Part 2, the Owner reserves the right to terminate its relationship with the Design/Builder and seek an alternate relationship and/or seek alternate methods of construction. All documents, drawings, and specifications created under this Part 1 Agreement shall be the property of the Owner subject to the provisions of Article 3 of this Part 1 Agreement.

§ 8.5 The Owner and the Design/Builder will incorporate into the Part 2 Agreement activities regarding utilization of certified Small Business Enterprises and workforce diversity that build on the inclusiveness in contracting models developed and used on prior Owner projects, as a means of making a good faith effort towards achievement of the SBE utilization and labor goals determined pursuant to the provisions of paragraph 1.3.6 of this Part 1 Agreement.

§ 8.6 The Design/Builder will develop and incorporate into its services under this Part 1 Agreement sustainable architecture guidelines and specifications for Part 2 of the Project, subject to approval by the Owner.

§ 8.7 This Part 1 Agreement includes the following:

Exhibit A --Scope of Work (Excerpt from the Owner's Request for Proposals # PRMG0000021523- RFP Ramsey County Public Health Facility Design-Build Project)

Exhibit B -- Design/Builder/Design Team Services (Excerpt from Design/Builder's proposal)

Exhibit C -- Billing Rate Schedule

Exhibit D -- General Terms and Conditions

§ 8.8 All notices under this Agreement, and any amendments to this Agreement, shall be in writing and shall be deemed given when delivered by certified mail, return receipt requested, postage prepaid, when delivered via personal service or when received if sent by overnight courier. All notices shall be directed to the Parties at the respective addresses set forth below. If the name and/or address of the representatives changes, notice of such change shall be given to the other Party in accordance with the provisions of this section.

Owner:	Kent Dirks
	Ramsey County Property Management
	121 Seventh Place East, Suite 2200
	Saint Paul, Minnesota 55101-2146

Design/Builder: David Kray
Kraus Anderson Construction Company
8625 Rendova Street Northeast
Circle Pines, MN 55014

If the name and/or address of the above-identified representatives changes, notice of such change shall be given to the other party in accordance with the provisions of this section.

Exhibit A to the Part 1 Agreement

Scope of Work

(Excerpt from the Owner's RFP # PRMG0000021523- - RFP Ramsey County Public Health Facility Design-Build Project)

The Professional Design Services required in Phase I ("Design Phase") include the following tasks:

A. Auditorium

1. Providing full and complete design services for architectural, interior design, mechanical, electrical, telephone and data distribution systems.
2. Working with the County's Project Team in creating and verifying Ramsey County Public Health's program needs and meeting.
3. Conducting design work sessions as required with the County's Project Team to review the scope of the Project regarding function, size and materials.
4. Providing assistance and participating with the County's Project Team in any approval processes required by the City of Saint Paul, and other authorities having jurisdiction over the Project.
5. Assisting the County's Project Team and the County's other vendors in determining the most advantageous construction sequencing process for the Project.
6. Providing coordination with the County's Project Team for all interior design services including all interior finishes such as floor coverings, wall coverings, paint, window treatments (if required).
7. Providing services to layout typical Furniture, Fixtures and Equipment and provide specification for the Owner to procure FF&E.
8. Provide construction administration and construction delivery.

B. Roof Replacement and HVAC

1. The Design Build consultant's proposal for Phase I and Phase II services shall not include Encompass Engineering Consultants. Encompass shall be removed from the Design Build team and the mechanical and electrical engineer will be determined and agreed upon by both parties. Encompass shall work for the Owner and represent the Owner's interest in this project. The Owner, Ramsey County, retained Encompass Engineering Consultants to complete Construction Documents for the replacement of the building roof and roof top air handling equipment (the "Roof Replacement and HVAC Work"). Refer to solicitation PRMG0000021523 Attachment B - Roof and HVAC Systems Project Manual and Attachment C – Roof and HVAC Systems Project Plans, dated September 6, 2019 and December 12, 2019, respectively, by Encompass Engineering Consultants. Notwithstanding references to Encompass in Exhibit B to the Part 1 Agreement, Encompass shall be retained by the Owner of this project. Any required revisions to the Construction Documents referenced in Exhibits A and B and construction administration related to the Roof and HVAC Systems shall be performed by Encompass Engineering under a contract directly with Ramsey County and paid for by Ramsey County pursuant to such separate contract. All costs for construction administration and Construction Documents revisions pertaining to the Roof Replacement and HVAC Work, not including revisions for Owner requested changes, shall be deducted; and all applicable professional practice standards, laws, ordinances, codes, rules and

regulations pertaining to the design of the Roof Replacement and HVAC Work, shall be removed; from the Phase II agreement. The Encompass Design Services % for Phase II Service fees that are included in Kraus Anderson's Cost Proposal will be deducted from the Phase II Agreement, Cost of Work.

Notwithstanding anything in the Part I or Part II Agreement to the contrary, the Owner and the Design-Builder acknowledge and agree that the Design-Builder's Work specifically excludes the design of the Roof Replacement and HVAC Work for the Project; it being understood and agreed that the Owner shall be responsible for all design of the Roof Replacement and HVAC Work for the Project. The Owner represents and warrants to the Design-Builder that the design of the Roof Replacement and HVAC Work will comply with all applicable professional practice standards, laws, ordinances, codes, rules and regulations. Notwithstanding anything in the Part I or Part II Agreement or the Design-Build Documents to the contrary, the parties acknowledge and agree that the Design-Builder shall not have any responsibility or liability with respect to the design of the Roof Replacement and HVAC Work for the Project. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder and the Design-Builder's Architect, and the agents and employees of each of them, from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees, arising out of or resulting from the design, or lack thereof, of the Roof Replacement and HVAC Work.

2. Provide construction administration and construction delivery as part of the Part II Agreement.

Phase I Services Deliverables

In addition, the Contractor will produce a Phase I Summary Report for review by the Owner's Project Team according to the Phase I Schedule. Provide individual print copies of the Phase I Summary Report for the Owner's Project Team members, along with a .pdf formatted copy for reproduction by the County and an electronic copy that contains working versions of all text and graphic files, spreadsheets, data, and related Project information.

Non-Agreement on GMP

If the County and the Part 1 Agreement Contractor are unable to agree on the scope and cost for the Part 2 Agreement, the County reserves the right to terminate its relationship with the Contractor and seek an alternate relationship and/or seek alternate methods of construction.

Preliminary Project Schedule

A Project Schedule will be agreed to by the Contractor in consultation with the County. The Contractor shall complete all Phase I services as described in this RFP within **ten (10) weeks** of the date of full execution of the Part 1 Agreement.

Workforce Participation Goals

Workforce Participation Goals for the Project have been determined as 32% for minority, 20% for female, and 32% for CERT SBE.

Purchasing Agent Agreement

The Contractor shall be granted the authority to, and shall act as, the County's Purchasing Agent in a legal form accepted by the County for procurement of certain construction materials, supplies, and equipment related to the Phase II Services. The Contractor shall include the fee for providing purchasing agent services in the Part 2 Agreement.

County Roles and Responsibilities

The County will:

1. Appoint a Project Manager to represent the County and serve as the Contractor's Primary Contact. The Project Manager will consult with Public Health and Property Management departments throughout the term of the Project with regard to the progress of the Project and adherence to Phase I and Phase II services being provided by the Contractor.
2. Provide the Contractor Team with available pertinent documents and plans of the existing library.
3. Provide the Contractor Team with pre-arranged access to the Project areas and will assist in the coordination and the availability of the County staff as needed to accomplish the approved Scope of Work.
4. Assist the Contractor Team by participating in all Project Meetings with the Owner.

Contractor and any subcontractors must coordinate and seek approval of all telecommunications and network requirements with Ramsey County Information Services prior to any purchase or installation/implementation of a technology solution as part of the Project.

Exhibit B to the Part 1 Agreement

Design/Builder Services
(Excerpt from Design/Builder's proposal to Owner's RFP # PRMG0000021523 - RFP Ramsey
County Public Health Facility Design-Build Project)



2.5.7. PROJECT SERVICES BY PHASES OR TASKS

2.5.7. Breakdown of Project services by phases or tasks.

KA | WOLD PHASE 1 SERVICES

SCHEMATIC DESIGN PHASE

During an in-depth planning phase to determine the appropriate design solution, we:

- Discuss the design objectives, style, etc.
- Discuss potential bid alternatives/options.
- Discuss the anticipated interior construction and finishes.
- Discuss the anticipated type of mechanical systems. (client preferences vs. cost).
- Determine if the budget is consistent with preferences for various building systems and establish priorities.
- Review the proposed schedule.
- Prepare plans and sections to confirm the opinion of probable cost for approval.

DESIGN DEVELOPMENT PHASE

During this phase, which involves refinement on all levels of the project, we:

- Meet with the building committee to assign a location for all FF&E.
- Revisit items mentioned during the Schematic Design phase and secure approvals.
- Perform a constructability review for quality control purposes.
- Provide progress documents for review.
- Complete a room-by-room review with the building committee and end-users.
- Present Phase 1 Summary Report to the Ramsey County project team.
- Proceed to the Construction Documents phase after written authorization and approval of the GMP and the design.
- Establish a Project Labor Agreement (PLA) to incorporate into Contract.

KA | WOLD PHASE 2 SERVICES

CONSTRUCTION DOCUMENTS PHASE

During this phase, we:

- Prepare final construction documents, which fully detail and specify all construction components.
- Project team to assemble and present the documents for bid, permit, and construction.
- Present interior finishes for approval.
- Finalize in-house quality control coordination and checking.
- Proceed to bid after confirmation of probable cost and approval.

Regular peer reviews are an integral part of ensuring that the design intent is followed through during the development of the construction documents.

- Review all equipment selection items.
- Coordination with our engineers on best practices for emergency notification systems and specialty HVAC system design components.

BID PHASE

We prepare a procurement plan and bid packages for all subcontract awards and purchase orders before they are issued for competitive bidding. This includes the bidders list and past record/qualifications of bidders; competitive considerations; special financial requirements; and other pertinent technical/budget/schedule information. Bid packages also include project-specific construction requirements for logistics, scheduling, safety, and coordination.

Pre-bid meetings are organized for general project information, as well as for specific trade packages, when appropriate. We organize and conduct meetings as an important element of the procurement phase, to familiarize potential vendors and subcontractors with the scope of work required.

During the bid phase, we:

- Recommend bid packages.
- Strategize to achieve a diverse workforce/certified vendor (Female, Minority, and CERT SBE) goals.
- Investigate and identify long-lead bid items for material and equipment.
- Conduct pre-bid meetings with all bidders.
- Familiarize bidders with any special requirements.
- Solicit WMSBE involvement.
- Conduct competitive subcontractor bidding.
- Receive, review, and thoroughly analyze all bids.
- Conduct pre-award conferences.
- Recommend contract awards to Ramsey County.
- Collect subcontractors bond/insurance.
- Schedule of values review for cash flow projections.
- Monitor and coordinate submittal schedule.
- Process samples and shop drawings.

Scheduling

The KA|Wold team understands the critical nature of the construction schedule requirements, as well as meeting the GMP budget. This is a result not only of our ability with physical construction but also our ability to adapt to changing conditions, as most projects require. Detailed risk management planning is completed during preconstruction to identify changing conditions, potential scheduling problems, material shortages, site conditions, or process issues.

2.5.7. PROJECT SERVICES BY PHASES OR TASKS

Lean processes are at the core of construction methods and have fundamentally changed our site operations by fostering and requiring a team approach. The workers onsite understand success requires planning their activities, communicating the plan openly, and fulfilling their part of the plan as promised. They are engaged by the process and have a greater sense of responsibility for completing the tasks they are committed to each week.

COMMUNICATION WITH PROJECT TEAM AND STAKEHOLDERS

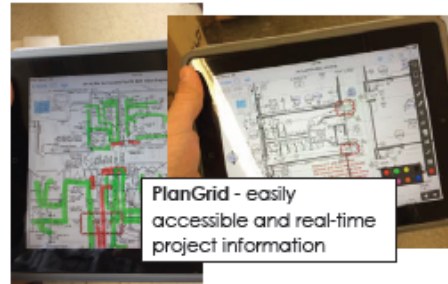
Concise and clear communication is pivotal to the successful progress of the project. We employ a proactive, transparent, and collaborative format to establish open communication between Ramsey County and stakeholders, Wold, Encompass, KA, project team, and the community.

Our communication processes and tools include:

- The Disruption Avoidance Plan is developed to communicate and minimize interruptions to the day-to-day operations of the facility while construction is taking place. Contents include milestone schedule, site staging plan, phasing, security, utilities, floor plans - life safety plan, communication plan, key contact information, and emergency contact information.
- KA uses collaborative web-based project management technology that is easily accessible and with real-time and current information on platforms such as PlanGrid/iPad and ViewPoint Team.
- Weekly progress meetings.
- Monthly Progress Report includes a job status narrative, previous meeting minutes, construction schedule reports, project financial summary, critical owner/architect decisions needed. It also includes budget update, change order log and status, contingency update, schedule update, critical issues, and progress photos.
- Other communication tools include drone flyover videos and photos and HoloBuilder 360 camera photo capture and JobWalk virtual tours.



Scan QR code with your mobile device for Sample Project Report - one way KA uses technology as a communication tool and keep stakeholders informed.



Leveraging Technology for Project Communication

- Instant updates to entire team
- Immediate tracking of changes to drawings
- Integration of field progress photos for clarification
- Instantly prepare and share RFIs
- Drawing revision tracking and recall
- As-built drawing tracking and closeout

CONSTRUCTION PHASE

Our on-site management team will provide overall site management, including project control systems to ensure that the overall finished project meets or exceeds the project requirements and the Owner's expectations. KA's Project Superintendent (Dan Rothbauer) will be stationed on-site for the full project duration and will serve as the on-site interface with those who will access or operate in the vicinity of the construction area. KA's Project Manager (David Kray) will also be present, on-site as required by the project, for owner and job site meetings, progress reports, and to handle any management issues that may arise during the project.

Construction Phase Project Management and On-Site Supervision

We have assigned an experienced on-site, full-time Project Superintendent (Dan Rothbauer) to organize and supervise all construction activities. In conjunction with our Project Manager (David Kray), Dan will coordinate the scheduling of the subcontractor's work, ensuring that requirements of the overall schedule are met and that no delay-related or other claims are presented to the project due to ineffective management, scheduling, or planning.

Dan Rothbauer and David Kray will be responsible for quality and safety program compliance, with assistance from Jay Vander Leest, KA's Director of Safety. They will also monitor all deliveries of materials, contractor progress, and measure physical completion of work, both in conjunction with each contractor's invoicing procedures and at greater frequencies when needed. They will ensure that each contractor has the appropriate staffing to meet schedule requirements.

2.5.7. PROJECT SERVICES BY PHASES OR TASKS

The following are a list of KA, Wold, and Encompass's construction phase services:

- Job Site Mobilization
 - Provide full-time, onsite project supervision
 - Job site office
 - Security
- Progress Meetings and Reports
 - Record project progress with reports
 - Weekly progress meetings and reports
 - Monthly evaluation of the project: budget, change orders, percent of project completion, and purchases
 - Maintain on-site records
 - Shop drawings
 - Samples
 - Contract documents
- Cost Control
 - Labor
 - Establish proper crew sizes with subcontractor supervisory personnel
 - Monitor labor supply in regards to schedule
 - Materials
 - Purchase order controls
 - Specific delivery instructions
 - Subcontractors
 - Clearly define the scope of work
 - Diligent contract administration
 - Overall project costs
 - Continuously monitor project costs
 - Review project costs with Ramsey County
 - Recommend action to be taken to reduce or eliminate cost
 - Keep accurate records of costs that are fully available to Ramsey County
- Schedule Control
 - Establish a shop drawing submittal schedule
 - Monitor compliance with submittal and construction schedule
 - Make proper adjustments for work that gets ahead of or behind schedule
- Quality Control
 - The D-B team is responsible for quality control and will be led by KA's superintendent
 - KA's project superintendent has primary responsibility for quality control
 - Review safety programs developed by subcontractors
- Safety Coordination
 - COVID-19 screening and jobsite protocols
 - Establish a safety program for the project
 - Background security checks
 - Review safety programs developed by subcontractors

- Conduct regular and appropriate inspections to check safety precautions and programs for the project
- Establish and maintain a badging system to identify trade workers on-site
- Documentation
 - Provide photo documentation of construction progress. Provide copies of all construction photographs, construction observation reports, punchlists, a final summary report, and other documents.

Safety

It is our top priority to provide a safe and healthy work environment for all employees and to abide by all federal, state, and local regulations. We strive for zero lost-time on each project through diligent management, utilization of our resources, a proactive approach to safety, a strong supervisory presence, and hazard assessment.

We will review the safety programs of each of the contractors and develop an overall safety plan for the project. Job site visits, along with weekly "tool box" meetings provide constant monitoring of the safety programs. Dan Rothbauer (Project Superintendent) will be responsible for establishing, monitoring, and ensuring our safety policies are enforced by all of the contractors and will continue to monitor the program during the construction phase.



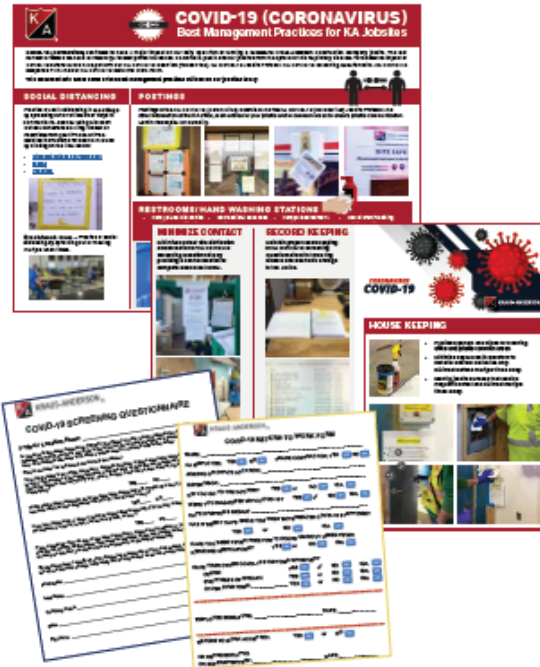
2.5.7. PROJECT SERVICES BY PHASES OR TASKS

COVID-19 Jobsite Protocol

As the world continues to deal with and adapt to the unprecedented challenges of the COVID-19 pandemic, Kraus-Anderson's top priority remains safety. The CDC and the Department of Health have recommended the implementation of social distancing (keeping a safe distance of at least 6 feet) and reduced close contact with others to help reduce the spread of infection. As a result of these concerns and the guidance from the CDC and Department of Health, KA has assembled and put in place protocols to maintain safety for construction workers.

POST-CONSTRUCTION PHASE

- Substantial Completion
 - Prepare preliminary punch list of all divisions of the plans and specifications
 - Supervise completion of punch list items and advise Ramsey County when all punch list items have been satisfactorily completed
 - Prepare and recommend issuance of certificates of substantial completion to all subcontractors
- Start-Up
 - Coordinate testing of building systems
 - Check and test all components for compliance with all construction plans and documents
 - Provide a building material and equipment orientation program to familiarize Ramsey County's building operations and management personnel
- Final Completion and Project Commissioning
 - Notify Ramsey County that the project is ready for final inspection
 - Coordinate completion of final punch list items
 - Provide Ramsey County with all documents, records, manuals, and required guarantees
 - Coordinate and/or procure project commissioning services to comply with newly established occupancy requirements
 - Obtain complete occupancy permit
 - Coordinate move-in with Ramsey County
 - Prepare and recommend issuance of the certificate of final completion to all subcontractors
- Warranty Period
 - Provide and coordinate all services required during the warranty period
 - Inspect facility and site with Ramsey County and consultants eleven months after project substantial completion
 - Continued relationship with Ramsey County and provide ongoing support after the warranty period



COVID-19: KA'S COMMITMENT TO JOB SAFETY

As the world continues to deal with and adapt to the unprecedented challenges of the COVID-19 pandemic, Kraus-Anderson's top priority remains safety. The company has implemented stringent social distancing practices and other elevated safety protocol on construction job sites, details of which can be found at <https://www.krausanderson.com/about/kraus-anderson-responds-to-covid-19/>.



2.5.7. PROJECT SERVICES BY PHASES OR TASKS

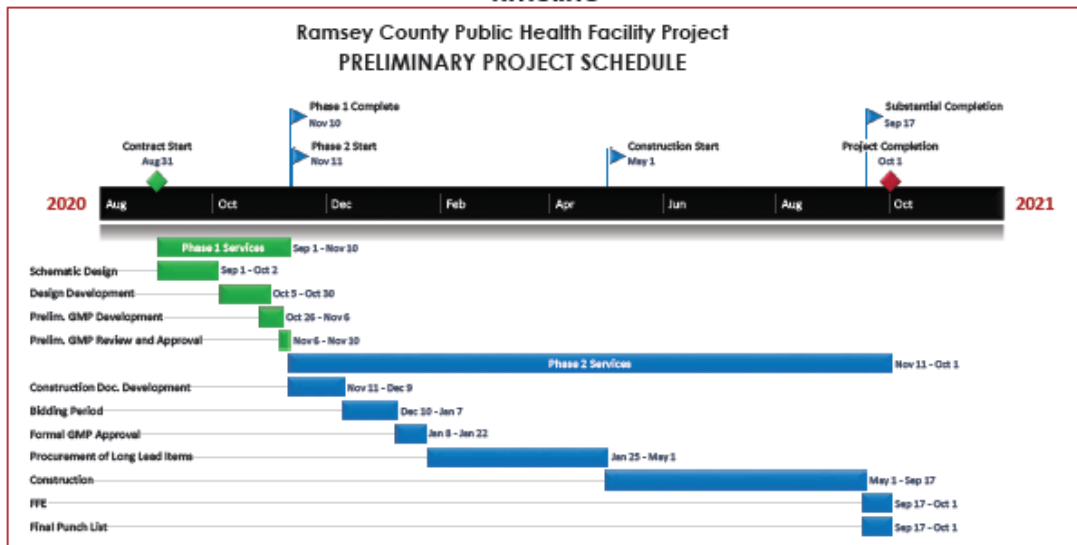
Time Commitment for Team

Team Member	Phase 1 Services	Phase 2 Services
Mark Kotten, KA PIC/Construction	As needed	As needed
Joel Dunning, Wold PIC/Design	As needed	As needed
Dustin Phillips, KA Construction Senior PM	As needed	As needed
David Kray, KA Construction PM	25%	25%
Dan Rothbauer, KA Project Superintendent	10%	100%
Laurie Trousil, KA Director of Diversity & Inclusion	20%	15%
Andy Dahlquist, Wold Design PM	25%	20%
Samantha Epping, Wold Interior Designer	40%	5%
Jonathan Loose, Wold Mechanical Engineer	5%	5%
Brad Johannsen, Wold Electrical Engineer	5%	5%
Kent Jones, Encompass Principal Engineer	0%	2%
Ted Tio, Encompass Principal Engineer	0%	5%
Mark Blazeovic, Encompass Principal Engineer	0%	7%
Technical Resources Team	As needed	As needed

2.5.8 Any exceptions to the General Contract/ Agreement Terms and Conditions must appear in the Contractor's proposal under a separate section titled "Exceptions", with proposed alternate language or deletions. The County has no obligation to accept or agree to any such exceptions requested by a Contractor. Even if there are no exceptions, a statement must be provided.

Kraus-Anderson has reviewed Ramsey County's proposed Design-Build Agreement. Kraus-Anderson has worked with Ramsey County on several past projects, most recently the Ramsey County Shoreview Library Remodel Project for Mounds View Public Schools in 2017, and we have successfully negotiated mutually acceptable contract terms and conditions on those projects. We assume that similar contract terms and conditions will be acceptable for this Project. We would be happy to provide a copy of the 2017 negotiated design-build agreement for review upon request.

Timeline



Ramsey County RFP #: PRMG0000021523
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Section 2.5.7.
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Exhibit C to the Part 1 Agreement**Billing Rate Schedule****List of Hourly Rates for Professional Services**

Contractor Name	Position/Category	Hourly Rates
Kraus-Anderson Construction Company	Principal In Charge/VP	\$177.00
Kraus-Anderson Construction Company	Senior Project Manager	\$150.00
Kraus-Anderson Construction Company	Project Manager	\$130.00
Kraus-Anderson Construction Company	Director of Building Science	\$160.00
Kraus-Anderson Construction Company	M&E Systems Manager	\$137.00
Kraus-Anderson Construction Company	BIM/VDC Manager	\$115.00
Kraus-Anderson Construction Company	Safety Director	\$137.00
Kraus-Anderson Construction Company	General Superintendent	\$137.00
Kraus-Anderson Construction Company	Project Superintendent	\$127.00
Kraus-Anderson Construction Company	Project Coordinator	\$61.00
Kraus-Anderson Construction Company	Project Accountant	\$61.00
Kraus-Anderson Construction Company	Diversity & Inclusion Coordinator	\$130.00
Wold Architects and Engineers	Principals	\$210.00
Wold Architects and Engineers	Project Managers	\$180.00
Wold Architects and Engineers	Lead Mechanical/Electrical Engineers	\$180.00
Wold Architects and Engineers	Mechanical/Electrical Engineering Staff	\$120.00 - \$160.00
Wold Architects and Engineers	Architectural Staff	\$100.00 - \$150.00
Wold Architects and Engineers	Administrative Staff	\$75.00
Encompass, Inc.	Principal Engineer	\$175.00
Encompass, Inc.	Senior Project Engineer	\$160.00

Exhibit D to the Part 1 Agreement

General Terms and Conditions

Note: For Purposes of this Exhibit D, the term "Contractor" shall mean "Design/Builder" and the term "County" shall mean "Owner" as those terms are defined in the Part 1 Agreement.

1. Independent Contractor

The Contractor is and shall remain an independent contractor throughout the term of this Agreement and nothing herein is intended to create, or shall be construed as creating, the relationship of partners between the parties or as constituting the Contractor as an employee of the Owner.

2. Successors, Subcontracting and Assignment

2.1.

The Contractor binds itself, its partners, successors, assigns and legal representatives to the Owner in respect to all covenants, contracts and obligations contained in this Agreement.

2.2.

The Contractor shall not enter into any subcontract for performance of any services under this Agreement nor assign or transfer any interest in this Agreement without the prior written approval of the Owner and subject to such conditions and provisions as the Owner may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

3. Compliance with Legal Requirements

3.1.

The Contractor shall comply with all applicable federal, state and local laws, local ordinances, and the rules and regulations of any regulatory body acting thereunder and with the provisions of all licenses, certifications and other requirements necessary for the execution and completion of the contract.

3.2.

Unless otherwise provided in the agreement, the Contractor, at its own expense, shall secure and pay for all permits, fees, charges, duties, licenses, certifications, inspections, and other requirements and approvals necessary for the execution and completion of the contract, including registration to do business in Minnesota with the Secretary of State's Office.

3.3.

Prior to entering into a contract with Ramsey County, a domestic corporation must submit a Certificate of Good Standing issued by the Minnesota Secretary of State's office pursuant to Minn. Stat. §5.12, and a foreign corporation must submit a Certificate of Authority issued by the Minnesota Secretary of State's Office pursuant to Minn. Stat. §303.03. The Contractor shall maintain a Certificate of Good Standing or a Certificate of Authority, as applicable, and shall submit the Certificate upon request by the Owner, throughout the term of the agreement and including amendments to renew as and if allowed by the contract.

4. Data Practices

4.1.

All data collected, created, received, maintained or disseminated for any purpose in the course of the Contractor's performance under this Agreement is subject to the provisions of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, any other applicable state statutes, any state rules adopted to implement the Act and statutes, as well as federal statutes and regulations on data privacy.

4.2.

The Contractor shall take all reasonable measures to secure the computers or any other storage devices in which Owner data is contained or which are used to access Owner data in the course of providing services under this Agreement. Access to Owner data shall be limited to those persons with a need to know for the provision of services by the Contractor. Except where client services are provided, at the end of the Project all Owner data will be purged from the Contractor's computers and storage devices used for the Project and the Contractor shall give the Owner written verification that the data has been purged.

5. Security

5.1.

The Contractor is required to comply with all applicable Ramsey County Information Services Security Policies ("Policies"), as published and updated by Information Services Information Security. The Policies can be made available on request.

5.2.

Contractors shall report to Ramsey County any privacy or security incident regarding the information of which it becomes aware. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with System operations in an information system. "Privacy incident" means violation of the Minnesota Government Data Practices Act (MGDPA) and/or the HIPAA Privacy Rule (45 C.F.R. Part 164, Subpart E), including, but not limited to, improper and/or unauthorized use or disclosure of protected information, and incidents in which the confidentiality of the information maintained by it has been breached. This report must be in writing and sent to the Owner not more than 7 business days after learning of such non-permitted use or disclosure. Such a report will at least: (1) Identify the nature of the non-permitted use or disclosure; (2) Identify the data used or disclosed; (3) Identify who made the non-permitted use or disclosure and who received the non-permitted or violating disclosure; (4) Identify what corrective action was taken or will be taken to prevent further non-permitted uses or disclosures; (5) Identify what was done or will be done to mitigate any deleterious effect of the non-permitted use or disclosure; and (6) Provide such other information, including any written documentation, as the Owner may reasonably request. The Contractor is responsible for notifying all affected individuals whose sensitive data may have been compromised as a result of the Security or Privacy incident.

5.3.

Contractors must ensure that any agents (including contractors and subcontractors), analysts, and others to whom it provides protected information, agree in writing to be bound by the same restrictions and conditions that apply to it with respect to such information.

5.4.

The Owner retains the right to inspect and review the Contractor's operations for potential risks to Owner operations or data. The review may include a review of the physical site, technical vulnerabilities testing, and an inspection of documentation such as security test results, IT audits, and disaster recovery plans.

5.5.

All Owner data and intellectual property stored in the Contractor's system is the exclusive property of the Owner.

6. Indemnification

The Contractor shall indemnify, hold harmless and defend the Owner, its officials, agents, and employees against any and all liability, losses, costs, damages, expenses, claims or actions, including reasonable attorney's fees, which the Owner, its officials, agents, or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any act or omission of the Contractor, or its

subcontractors, and their officers, agents or employees, in the execution, performance, or failure to adequately perform the Contractor's obligations pursuant to this Agreement.

7. Contractor's Insurance

7.1.

The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims which may arise out of, or result from, the Contractor's operations under this Agreement, whether such operations are by the Contractor or by any subcontractor, or by anyone directly employed by them, or by anyone for whose acts or omissions anyone of them may be liable.

7.2.

Throughout the term of this Agreement, the Contractor shall secure the following coverages and comply with all provisions noted. Certificates of Insurance shall be issued to the Owner contracting department evidencing such coverage to the Owner throughout the term of this Agreement.

7.2.1

Commercial general liability of no less than \$500,000 per claim, \$1,500,000 per occurrence, \$2,000,000 general aggregate, \$2,000,000 products/completed operations total limit, \$1,500,000 personal injury and advertising liability

7.2.2.

All policies shall be written on an occurrence basis using ISO form CG 00 01 or its equivalent.

7.2.3

Ramsey County, its officials, employees, and agents, shall be added to the policy as additional insured on a primary basis with respect to ongoing and completed operations of the Contractor, using ISO endorsement form CG 20 10 and 20 37 or the equivalent.

7.2.4

Professional liability of no less than \$1,000,000 per claim and \$2,000,000 aggregate limit.

7.2.5

Certificate of Insurance must indicate if the policy is issued on a claims-made or occurrence basis. If coverage is carried on a claims-made basis, then 1) the retroactive date shall be noted on the Certificate and shall be prior to or the day of the inception of the contract; and 2) evidence of coverage shall be provided for three years beyond expiration of the contract.

7.3.

Workers' Compensation as required by Minnesota Law. Employer's liability with limits of \$500,000/\$500,000/\$500,000.

7.4.

An umbrella or excess liability policy over primary liability insurance coverages is an acceptable method to provide the required commercial general liability and employer's liability insurance amounts.

7.5.

If the Contractor is driving on behalf of the Owner as part of the Contractor's services under the Agreement, a minimum of \$1,000,000 combined single limit auto liability, including hired, owned, and non-owned.

7.6.

These are minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance which may be needed in connection with this Agreement.

7.7.

Certificates shall specifically indicate if the policy is written with an admitted or non-admitted carrier. Best's Rating for the insurer shall be noted on the Certificate, and shall not be less than an A-.

7.8.

The Contractor shall not commence work until it has obtained the required insurance and if required by this Agreement, provided an acceptable Certificate of Insurance to the Owner.

7.9.

All Certificates of Insurance shall provide that the insurer give the Owner prior written notice of cancellation or non-renewal of the policy as required by the provisions of Minn. Stat. Ch. 60A, as applicable.

7.10.

Nothing in the Agreement shall constitute a waiver by the Owner of any statutory or common law immunities, defenses, limits, or exceptions on liability.

8. Audit

Until the expiration of six years after the furnishing of services pursuant to this Agreement, the Contractor, upon written request, shall make available to the Owner, the State Auditor, or the Owner's ultimate funding source, a copy of the Agreement, and the books, documents, records, and accounting procedures and practices of the Contractor relating to this Agreement.

9. Non-Conforming Services

The acceptance by the Owner of any non-conforming goods/services under the terms of this Agreement or the foregoing by the Owner of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the Owner's right to conforming services or any rights and/or remedies in respect to any subsequent breach or default of the terms of this Agreement. The rights and remedies of the Owner provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

10. Setoff

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor. The Owner may withhold any payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the Owner from the Contractor is determined.

11. Conflict of Interest

The Contractor shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Contractor warrants that it is not now aware of any facts that create a conflict of interest. If the Contractor hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the Owner. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this subparagraph shall be deemed a material breach of this Agreement.

12. Respectful Workplace and Violence Prevention

The Contractor shall make all reasonable efforts to ensure that the Contractor's employees, officers, agents, and subcontractors do not engage in violence while performing under this Agreement. Violence, as defined by the Ramsey County Respectful Workplace and Violence Prevention Policy, is defined as words and actions that hurt or attempt to threaten or hurt people; it is any action involving the use of physical force, harassment, intimidation, disrespect, or misuse of power and authority, where the impact is to cause pain, fear or injury.

13. Force Majeure

Neither party shall be liable for any loss or damage incurred by the other party as a result of events outside the control of the party ("Force Majeure Events") including, but not limited to: war, storms, flooding, fires, strikes, legal acts of public authorities, or acts of government in time of war or national emergency.

14. Unavailability of Funding - Termination

The purchase of goods and/or labor services or professional and client services from the Contractor under this Agreement is subject to the availability and provision of funding from the United States, the State of Minnesota, or other funding sources, and the appropriation of funds by the Board of County Commissioners. The Owner may immediately terminate this Agreement if the funding for the purchase is no longer available or is not appropriated by the Board of County Commissioners. Upon receipt of the Owner's notice of termination of this Agreement the Contractor shall take all actions necessary to discontinue further commitments of funds to this Agreement. Termination shall be treated as termination without cause and will not result in any penalty or expense to the Owner.

15. Termination

15.1. Termination by the Owner

15.1.1.

The Owner may immediately terminate this Agreement if any proceeding or other action is filed by or against the Contractor seeking reorganization, liquidation, dissolution, or insolvency of the Contractor under any law relating to bankruptcy, insolvency or relief of debtors. The Contractor shall notify the Owner upon the commencement of such proceedings or other action.

15.1.2.

The Owner may terminate this Part 1 Agreement if the Contractor violates any material term or condition of this Part 1 Agreement or does not fulfill in a timely and proper manner its obligations under this Part 1 Agreement. In the event that the Owner exercises its right of termination under this Paragraph, it shall submit written notice to the Contractor and its surety, if any, specifying the reasons therefore. Termination shall be immediately effective upon the failure of the Contractor to cure the default within ten (10) business days of receipt of the notice of default. Upon termination, the Contractor shall take all actions necessary to discontinue further commitments of funds, and the Owner shall take possession of the site and of all materials and finish the Part 1 Services by whatever method the Owner may deem expedient.

15.1.3.

The Owner may terminate this Part 1 Agreement without cause upon giving at least thirty (30) business days written notice thereof to the Contractor. In such event, the Contractor shall be entitled to receive compensation for services provided in accordance with this Agreement up to and including the effective date of termination.

15.1.4.

This Part 1 Agreement may be terminated by the Owner upon immediate written notice to the Contractor in the event that the Project is abandoned. If such termination

occurs, the Owner shall pay the Contractor for services completed and for proven loss sustained upon materials, equipment, tools, construction equipment and machinery.

15.1.5.

Any termination by the Owner shall be without prejudice to the rights of the Owner to pursue other remedies against the Contractor.

15.2. Termination by the Contractor

15.2.1.

If the Owner fails to make payment of undisputed amounts or otherwise violates any material term or condition of this Part 1 Agreement the Contractor may give written notice that the Contractor intends to terminate this Part 1 Agreement, giving the specific reasons therefore. Termination shall be immediately effective upon the failure of the Owner to cure the default within ten (10) business days of receipt of the notice of default. A good faith dispute by the Owner regarding the amount of payment and failure to pay disputed amounts, which is subject to the provisions of the Minnesota Prompt Payment Act, does not constitute grounds for termination by the Contractor under this paragraph.

16. Interpretation of Agreement; Venue

16.1.

The Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this Agreement shall be venued in the appropriate State or Federal District Court in Ramsey County, Minnesota.

16.2.

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Agreement.

17. Warranty

The Contractor warrants that it has the legal right to provide the goods and services identified in this Agreement and further warrants that the goods and services provided shall be in compliance with the provisions of this Agreement.

18. Alteration

Any alteration, variation, modification, or waiver of the provisions of this Agreement shall be valid only after it has been reduced to writing and signed by both parties.

19. Title - Risk of Loss

19.1

Title to goods and/or all associated documentation shall pass to the County upon payment by the County for goods and/or associated documentation; or for construction projects, upon incorporation of the goods into the Project.

19.2

The County shall be relieved from all risks of loss or damage to goods, and/or all documentation prior to the time title passes to the County as described above. The Contractor shall not be responsible for loss or damage to goods and/or documentation occasioned by negligence of the County or its employees.

20. Submittals

No portion of the work requiring submission of a shop drawing, drawing, manufacturer's literature, test data or other information, or a sample shall be commenced until the submittal has been approved by the County.

21. Clean Up

The Contractor shall at all times keep County premises free from accumulation of waste materials or rubbish caused by its operations.

22. Lobbying

For all contracts involving over \$150,000 in federal funds, the Contractor must sign the Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements, attached to this RFP, and submit it as part of the proposal contents.

23. Safety Compliance

23.1

The Contractor and all subcontractors shall at all times during the performance of the Work under this Part 2 Agreement be and remain in compliance with and responsible for any conditions imposed upon the County by OSHA requirements.

23.2

A risk control program must be implemented on site during this project.

24. Entire Agreement

The written Agreement, including all attachments, represent the entire and integrated agreement between the parties hereto and supersede all prior negotiations, representations or contracts, either written or oral. No subsequent agreement between the Owner and the Contractor to waive or alter any of the provisions of this Agreement shall be valid unless made in the form of a written Amendment to this Agreement signed by authorized representatives of the parties.

25. Sustainable Architecture Guidelines and Specifications

25.1

The Contractor will develop and incorporate sustainable architecture guidelines and specifications under the Part 1 Agreement, subject to approval by the Owner.

25.2

The Project will be required to follow the State of Minnesota Sustainable Building Guidelines and meet the Minnesota SB 2030 Energy Standard (<http://www.b3mn.org>). Energy modeling shall be included at each design phase to model the energy use for the building and evaluate various options for reducing energy use in order to meet the sustainable building requirements.



Public Health Facility Design Build Project
Total Estimated Project Budget and Financing Plan
August 31, 2020

	<u>Project Budget</u>	<u>Cost Estimate</u>
1.	Construction:	
	Office Area Remodel	\$ 355,800.00
	Roof and HVAC	\$ 1,559,868.00
	<i>Total Construction</i>	\$ 1,915,668.00
2.	Furniture, Fixtures, Equipment and Signage:	
	Furniture	\$ 106,100.00
	Contingency - 10%	\$ 10,610.00
	<i>Total Furniture, Fixtures, Equipment and Signage</i>	\$ 116,710.00
3.	Technology:	
	Audio/Video Media Allowance	\$ -
	Voice/Data Cabling	\$ 5,000.00
	Sound-Masking System	\$ -
	C-Cure Card Access and Security System Upgrades	\$ -
	<i>Total Technology</i>	\$ 5,000.00
4.	Professional Services:	
	Architectural and Engineering - 20%	Included in Constr.
	<i>Total Professional Services</i>	\$ -
5.	Project Management:	
	Project Management Fee - 3%	\$ 61,121.00
	Permits	Included in Constr.
	<i>Total Project Management</i>	\$ 61,121.00
6.	Contingency	
	Contingency of Approximately 3.5% of 1,3,4,5	\$ 70,251.00
	<i>Total Contingency</i>	\$ 70,251.00
	<i>Total Estimated Project Budget</i>	<u>\$ 2,168,750.00</u>

Financing Plan

2015 Public Health 555 Cedar Street Auditorium Renovation Project	\$ 600,000.00	
2020 CIP County Building Improvements Project	\$ 1,100,000.00	
Prior Year's Property Management Building Improvements Project	\$ 468,750.00	
<i>Total Financing Plan</i>		<u>\$ 2,168,750.00</u>

Board of Commissioners

Request for Board Action

Item Number: 2020-284

Meeting Date: 10/6/2020

Sponsor: Public Works

Title

Highway Right of Way Access Agreement - Silver Lake Road (CSAH 44)

Recommendation

1. Approve the termination of the Access Control Agreement to Silver Lake Road, dated October 28, 1974 and recorded July 25, 1975 by the County Recorder's office and the corrected access agreement.
2. Authorize the Chair and Chief Clerk to execute the termination and corrected access agreements.
3. Request that the signed agreements be filed with the County Recorder.

Background

Public Works staff have been working with the City of Saint Anthony and a private developer on the redevelopment of the former Walmart site in the northwest quadrant of Silver Lake Road (CSAH 44) and 37th Avenue Northeast. The current Access Control Agreement is dated October 28, 1974 and was recorded by the Ramsey County Recorder's office on July 25, 1975 (Document No. 1912722). The agreement incorrectly describes the allowed access to Silver Lake Road and needs to be terminated. Based on the date of the agreement, terminating requires approval by the Ramsey County Board of Commissioners. The physical location of the existing access will remain unchanged. The County Engineer/Director of Public Works recommends approval of access in this location.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☐ Opportunity ☐ Accountability

Racial Equity Impact

This is an administrative action that does not directly affect any area of racially concentrated poverty or area of concentrated poverty. It is necessary to redevelop a parcel of land that has been vacant for over ten years and is necessary to maintain the economic vitality of the area.

Community Participation Level and Impact

The development of this parcel has been planned through the processes of the City of Saint Anthony.

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

The project has no impact on the County's budget.

County Manager Comments

Board approval is required to clear title to property being developed.

Last Previous Action

Original agreement was approved by the Board in 1974.

Attachments

1. Termination of Access Control Agreement
2. Access Control Agreement - Corrected

**CITY OF ST. ANTHONY VILLAGE
STATE OF MINNESOTA**

RESOLUTION 20-040

**A RESOLUTION ACCEPTING AND APPROVING THE
TERMINATION OF ACCESS CONTROL AGREEMENT**

WHEREAS, Ramsey County, Minnesota, in corporation with the City of St. Anthony Village, proposed to forever discharge and release the tracts of land legally described on Exhibit A attached hereto, located in Ramsey County, Minnesota, from that certain Access Control Agreement dated October 28, 1974 and recorded July 25, 1975 in the Office of the County Recorder in and for Ramsey County, Minnesota, as Document No. 1912722 depicted in Exhibit B attached hereto.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of St. Anthony Village that:

1. The City agrees to accept and approve termination of Access Control Agreement No. 1912722 between Ramsey County, the City of St. Anthony Village, the tracts of land legally described on Exhibit A; and
2. The City Manager or his designee is authorized and directed to execute said Agreement for and on behalf of the City of St. Anthony Village.

Adopted this 14th day of April, 2020.

ATTEST:



Nicole Miller, City Clerk



Randy Stille, Mayor

Reviewed for administration:



Mark Casey, City Manager

EXHIBIT A

Legal Description

Location:	City of St. Anthony Village, Minnesota
Property Identification Number:	31-30-23-34-0028
Description:	LOT 2, BLOCK 1, SILVER LAKE VILLAGE
Location:	City of St. Anthony Village, Minnesota
Property Identification Number:	31-30-23-34-0017
Description:	LOT 5, BLOCK 1, SILVER LAKE CENTER
Location:	City of St. Anthony Village, Minnesota
Property Identification Number:	31-30-23-34-0013
Description:	LOT 4, BLOCK 1, SILVER LAKE CENTER,
Location:	City of St. Anthony Village, Minnesota
Property Identification Number:	31-30-23-31-0031
Description:	LOT 3, BLOCK 1, SILVER LAKE CENTER,
Location:	City of St. Anthony Village, Minnesota
Property Identification Number:	31-30-23-31-0030
Description:	LOT 2, BLOCK 1, SILVER LAKE CENTER

EXHIBIT B

Access Control Agreement

ACCESS CONTROL AGREEMENT

1912722
THIS INSTRUMENT, Made and entered into this 25th day of Oct., 1974,
between APACHE PLAZA LTD, a limited partnership, hereinafter called "Apache", and the CITY
OF ST. ANTHONY, a municipal corporation under the laws of the State of Minnesota, hereinafter
called "St. Anthony";

WITNESSETH THAT:

1912722
WHEREAS, Ramsey County, Minnesota, in cooperation with St. Anthony, proposes to
improve Silver Lake Road in the City of St. Anthony in the vicinity of the Apache Plaza
Shopping Center by installing certain traffic signals and turning lanes; and

1912722
WHEREAS, Apache is the owner of Lot 3, Block 1, Apache Plaza, which is a portion of
the Apache Plaza Shopping Center adjacent to a portion of Silver Lake Road which is to
be improved by Ramsey County; and

WHEREAS, prior to installation of such improvements, the County of Ramsey requires
that it or the City of St. Anthony be able to exercise certain control with respect to
access between said Lot 3, Block 1, Apache Plaza, and such portion of Silver Lake Road
and further requires control of portions of certain interior roads located upon said Lot.

NOW, THEREFORE, Apache, in consideration of the sum of One Dollar (\$1.00) and other
valuable consideration to it in hand paid by St. Anthony, the receipt whereof is hereby
acknowledged, does hereby grant unto St. Anthony and the County of Ramsey, the right to
control access and roadways within the following described land, situate in the County of
Ramsey, State of Minnesota, and described as follows, to-wit:

The Easterly 200 feet of Lot 3, Block 1, Apache Plaza, according to
the plat thereof on file and of record in the Office of the Registrar
of Deeds, Ramsey County, Minnesota.

IN TESTIMONY WHEREOF, Apache has caused this instrument to be executed the
day and year first above written.

In presence of:

Louise L. May
Virginia E. Linn

APACHE PLAZA LTD

BY Clayton L. Rasmussen
Rien Assoc. Co. General Partner

7620 \$00.00 = 0

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TERMINATION OF ACCESS CONTROL AGREEMENT

The undersigned, for valuable consideration, the receipt whereof is hereby acknowledged, does hereby forever discharge and release the tracts of land legally described on Exhibit A attached hereto, located in Ramsey County, Minnesota, from that certain Access Control Agreement dated October 28, 1974 and recorded July 25, 1975 in the Office of the County Recorder in and for Ramsey County, Minnesota, as Document No. 1912722.

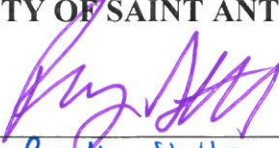
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SIGNATURE PAGE TO TERMINATION OF ACCESS CONTROL AGREEMENT

In Witness Whereof, the undersigned has hereunto set its hand this 14th day of April, 2020.

CITY:

THE CITY OF SAINT ANTHONY

By: 
Name: Randy Stille
Its: Mayor

By: 
Name: Mark Casey
Its: City Manager

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

This instrument was acknowledged before me on the 14th day of April, 2020, by Randy Stille, the Mayor of the City of Saint Anthony and by Mark Casey, the City Manager of the City of Saint Anthony, for and on behalf of the City of Saint Anthony.


Notary Public
State of Minnesota



SIGNATURE PAGE TO TERMINATION OF ACCESS CONTROL AGREEMENT

In Witness Whereof, the undersigned has hereunto set its hand this ____ day of _____, 2020.

COUNTY:

THE COUNTY OF RAMSEY

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

[illegible]

This instrument was acknowledged before me on the ____ day of _____, 2020, by _____, the _____ of the County of Ramsey and by _____, the _____ of the County of Ramsey, for and on behalf of the County of Ramsey.

Notary Public
State of Minnesota

THIS INSTRUMENT WAS DRAFTED BY:

Doran Companies (ELD)
7803 Glenroy Road, Suite 200
Bloomington, MN 55439
952-288-2000

EXHIBIT A

(Legal Description)

Parcel 1:

Lot 2, Block 1, Silver Lake Village, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel 2:

Lot 5, Block 1, Silver Lake Center, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel 3:

Lot 4, Block 1, Silver Lake Center, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel 4:

Lot 3, Block 1, Silver Lake Center, according to the recorded plat thereof, Ramsey County, Minnesota.

Parcel 5:

Lot 2, Block 1, Silver Lake Center, according to the recorded plat thereof, Ramsey County, Minnesota.

[Space Above Reserved for Recording Data]

ACCESS APPROVAL

THE COUNTY OF RAMSEY hereby acknowledges and consents to the curbcut and vehicular and pedestrian access drive located on a portion of the real property legally described on Exhibit A attached hereto (“**Property**”), which access drive is more particularly depicted and described on Exhibit B attached hereto (“**Access Drive**”).

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SIGNATURE PAGE TO ACCESS APPROVAL

In Witness Whereof, the undersigned has hereunto set its hand this ____ day of _____, 2020.

COUNTY:

THE COUNTY OF RAMSEY

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

This instrument was acknowledged before me on the ____ day of _____, 2020, by _____, the _____ of the County of Ramsey and by _____, the _____ of the County of Ramsey, for and on behalf of the County of Ramsey.

Notary Public
State of Minnesota

THIS INSTRUMENT WAS DRAFTED BY:

Doran Management, LLC (ELD)
7803 Glenroy Road, Suite 100
Bloomington, MN 55439
952-288-2000

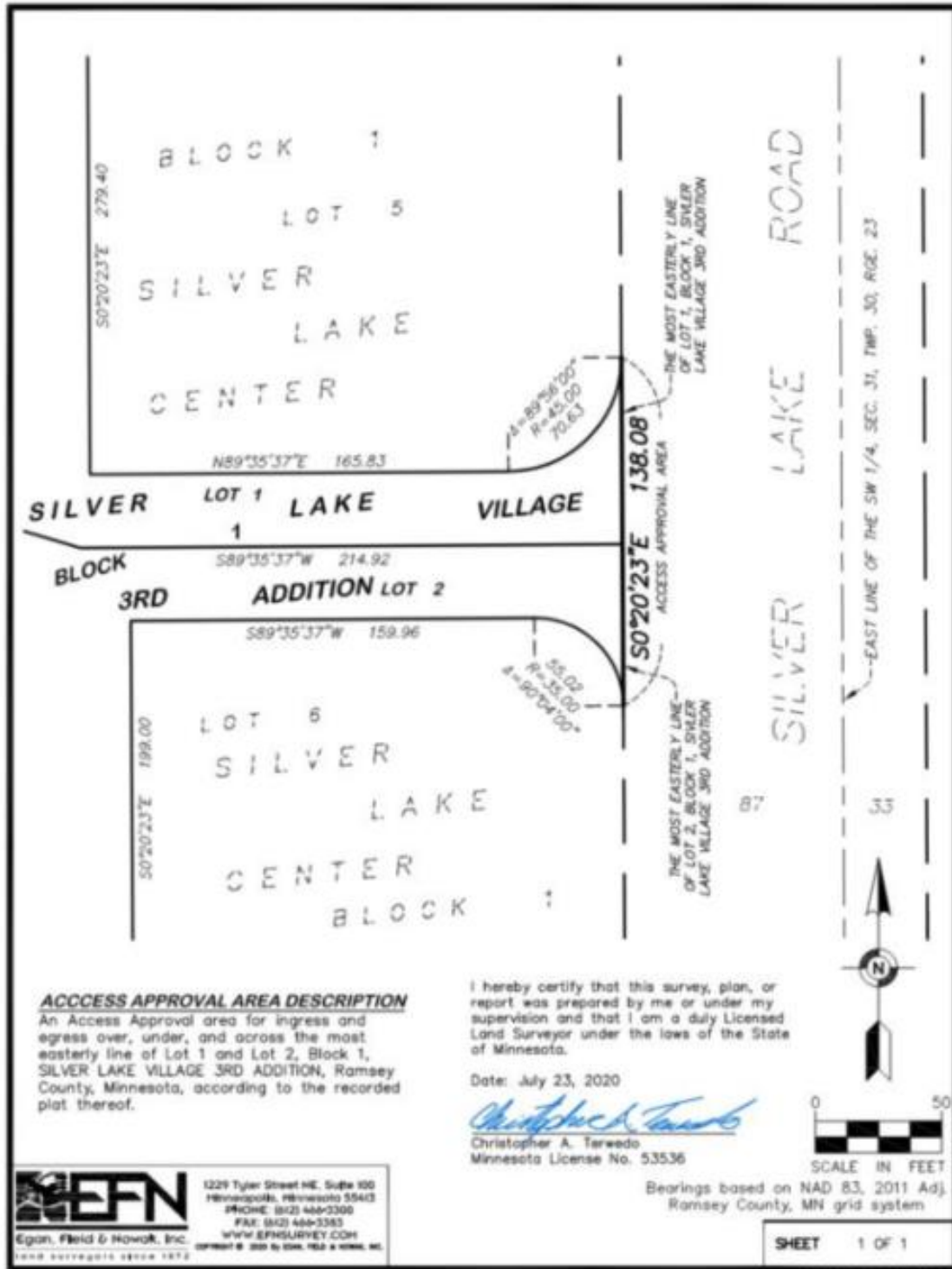
EXHIBIT A

(Legal Description of Property)

Lots 1 and 2, Block 1, Silver Lake Village 3rd Addition, according to the recorded plat thereof,
Ramsey County, Minnesota.

EXHIBIT B

(Depiction and Legal Description of Access Drive)



Board of Commissioners

Request for Board Action

Item Number: 2020-286

Meeting Date: 10/6/2020

Sponsor: Public Works

Title

Disclaim and Extinguish Interest in Unused Right-of-Way

Recommendation

1. Approve the disclamation and extinguishment of the County's interest in the unused county road right-of-way located east of Lexington Avenue and south of County Road C2 in the Northeast Quarter of the Southeast Quarter of Section 3, Township 29, Range 23 and the Northwest Quarter of the Southwest Quarter of Section 2, Township 29, Range 23, all in Ramsey County, Minnesota.
2. Request that a copy of this resolution be filed with the County Auditor, County Recorder and County Registrar.

Background

A recent review of a proposed subdivision plat revealed that the land included an interest in favor of County of Ramsey ("County") as road right-of-way that is not currently being used and does not appear to be necessary for current or planned needs.

The unused county road right-of-way is located east of Lexington Avenue and south of County Road C2 in Roseville in the Northeast Quarter of the Southeast Quarter of Section 3, Township 29, Range 23 and the Northwest Quarter of the Southwest Quarter of Section 2, Township 29, Range 23, all in Ramsey County, Minnesota. The legal description which contains unused right of way is, "Within LEXINGTON WOODS, according to the recorded plat thereof."

Review of the history of the right-of-way demonstrates that the right-of-way was created in 1877 through an order of the Ramsey County Board of Commissioners opening the county road, now known as Lexington Avenue. The order did not clearly define a specific location for the road, and it appears there may have been several alignments of Lexington Avenue in the area since 1877, including the identified right-of-way that follows the section line.

Under the common law doctrine of prescriptive use and application of Minnesota Statute Section 160.05 and its predecessor laws, land which is used as a road, regardless of the source of that use, is deemed dedicated to the public as right-of-way. Therefore, it is likely that the various alignments have been deemed by operation of law as dedicated to the public.

The current alignment of Lexington Avenue has remained the same since approximately 1960, when it was located to its current alignment to provide for a safer roadway.

The extinguishment of unused rights-of-way that are not recorded against the property and are not currently used or needed for foreseeable public uses, would return the property to unencumbered use by the property owner, would help clear the title to the property, would remove land that requires County maintenance and eliminates risk and potential liabilities associated with the historic property interests. Therefore, the County Engineer recommends extinguishing all interest in the unused rights-of-way. The County may extinguish its

interest in the county highway pursuant to Minnesota Statute Section 163.11, subdivision 7 if:

- (1) the interest is not a fee interest;
- (2) the interest was established more than 40 years earlier;
- (3) the interest is not recorded with the county recorder;
- (4) no highway improvement has been constructed on a right-of-way affected by the interest; and
- (5) no highway maintenance on a right-of-way affected by the interest has occurred within the last 40 years.

The County's interest in the county highway right-of-way was acquired by road order, prescription, or dedication. As such, the interest is equivalent to an easement, and not fee title interest.

The County's unused right-of-way was acquired prior to 1960, which is over 40 years ago.

A review of the records of the County Recorder indicate that the unused rights-of-way are not recorded.

No highway currently exists on the unused rights-of-way and no improvement or maintenance has been performed since before 1960.

Therefore, Ramsey County may extinguish the interest in the highway by adopting a resolution disclaiming and extinguishing any interest in the rights-of-way and filing and recording the resolution with the County Auditor and County Recorder.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☐ Opportunity ☒ Accountability

Racial Equity Impact

This administrative action has no known racial equity impact.

Community Participation Level and Impact

The development of this parcel has been planned through the processes of the City of Roseville.

☒ Inform ☐ Consult ☐ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

This action has no impact on the County's budget.

County Manager Comments

County Board action is required to disclaim and extinguish County interest in unused right-of-way, and to request filing the disclaimed and extinguished interest with the County Auditor, County Recorder and County Registrar.

Last Previous Action

None

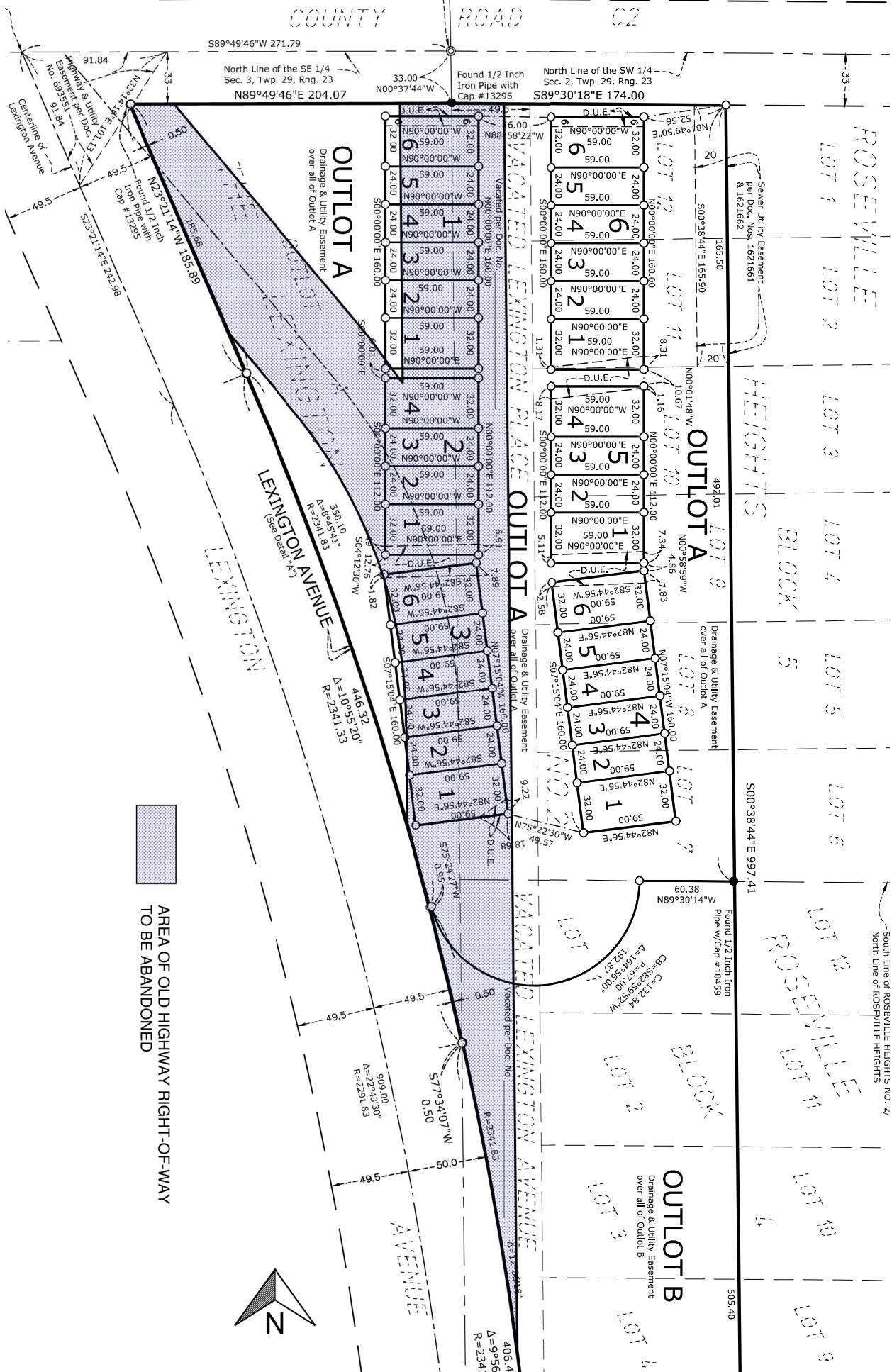
Attachments

1. Location Map

EXHIBIT

1/4
23

NW Corner or the SW 1/4 of Sec. 2,
Twp. 29, Rng. 23 and the
NE Corner of the SE 1/4
of Sec. 3, Twp. 29, Rng. 23



Board of Commissioners

Request for Board Action

Item Number: 2020-412

Meeting Date: 10/6/2020

Sponsor: Board of Commissioners

Title

Appointments to the Capital Improvement Program Advisory Committee

Recommendation

Appoint the following individuals to the Capital Improvement Program Advisory Committee for terms beginning with date of appointment:

<u>Appointee</u>	<u>District</u>	<u>Term Expires</u>
Devon Pohlman	1	8/30/22
Barbara Garn (incumbent)	2	8/30/22
Shaun McCalry (incumbent)	3	8/30/22
James Miller (incumbent)	5	8/30/22
Susan Hauwiller (incumbent)	6	8/30/22
Logan Beere (incumbent)	6	8/30/21
Dennis Larson (incumbent)	7	8/30/22

Background

The Capital Improvement Program Advisory Committee (CIPAC) provides citizen participation for the planning process as outlined for the County Capital Improvement Program, from a broad base of citizens. CIPAC is comprised of 14 Ramsey County appointed members, with two residents of each commissioner district. Members serve two-year staggered terms.

There are currently eight vacancies on CIPAC in Districts 1, 2, 3, 4, 5, 6 (2 openings) and 7. Recruitment through the County's Open Appointment Process resulted in eight applications. On September 4, 2020, the Chief Clerk's Office forwarded the applications to the board of commissioners for review and recommendation. Recruitment will continue for the remaining vacancy in District 4.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☒ Opportunity ☒ Accountability

Racial Equity Impact

The County currently recruits for advisory committee vacancies through an open process, which is currently limited to presence on the county website, GovDelivery distribution lists, and word of mouth by advisory committee members, staff and county commissioners. Plans are being created to implement changes to recruitment strategies to expand efforts to increase racial diversity and under-represented voices in the appointment process.

Community Participation Level and Impact

Participation by and input from community members appointed to advisory groups helps to shape and improve programs and services for the community, share information and increase the level of understanding through

discussion, dialogue and engagement.

☒ Inform

☒ Consult

☒ Involve

☐ Collaborate

☐ Empower

Fiscal Impact

Representatives on Ramsey County advisory boards and committees do not receive County compensation; they contribute their time and expertise to provide guidance and oversight to County policies and programs.

County Manager Comments

Appointments to Ramsey County advisory boards and committee are made by the Ramsey County Board of Commissioners. For more information on the CIPAC, please visit

<https://www.ramseycounty.us/your-government/leadership/advisory-boards-committees/capital-improvement-program-citizens-advisory-committee-cipac>.

Last Previous Action

On October 1, 2019, the County Board appointed Devon Pohlman (District 1) and Barbara Garn (District 2) to CIPAC for terms that ended August 30, 2020 (Resolution B2019-227).

On September 18, 2018, the County Board appointed Shaun McClary (District 3), James Miller (District 5), Susan Haulwiller (District 6) and Dennis Larson to CIPAC for a term that ended August 30, 2020 (B2018-247).

On April 3, 2018, the County Board appointed Logan Beere (District 6) to CIPAC for a term that ended September 30, 2020 (B2020-096).

Attachments

1. Membership Roster - September 2020

Capital Improvement Program Advisory Committee – Membership Roster

Total number of Appointees: 14

<u>Name</u>	<u>District</u>	<u>Term Expiration</u>	<u>Member Since</u>
1. Lawrence Sagstetter	1	8/30/21	2010
2. Devon Pohlman - pending	1	8/30/22	2019
3. Gary Bank	2	8/30/21	2016
4. Barbara Garn - pending	2	8/30/22	2019
5. Greg Lauer	3	8/30/21	2006
6. Shaun McClary - pending	3	8/30/22	2014
7. Thomas Rupp	4	8/30/21	2019
8. VACANT	4	8/30/22	
9. Lue Vang	5	8/30/21	2017
10. James Miller - pending	5	8/30/22	1997
11. Susan M. Hauwiler - pending	6	8/30/22	2011
12. Logan Beere - pending	6	8/30/21	2018
13. Gary B. Unger	7	8/30/21	1997
14. Dennis J. Larson - pending	7	8/30/22	1998

Board of Commissioners

Request for Board Action

Item Number: 2020-411

Meeting Date: 10/6/2020

Sponsor: Board of Commissioners

Title

Appointments to the Capitol Region Watershed District Board of Managers

Recommendation

Appoint the following three individuals to the Capitol Region Watershed District Board of Managers for terms beginning with date of appointment and ending September 30, 2023:

- Rick Sanders, District 2- Incumbent
- Joe Collins, District 3 - Incumbent
- Howana Sullivan Janzen - District 4

Background

The Capitol Region Watershed District (CRWD) is led by a five-person Board of Managers that guides CRWD implementation of the goals and objectives set forth in its [Watershed Management Plan](https://www.capitolregionwd.org/watershed-management-plan/) <<https://www.capitolregionwd.org/watershed-management-plan/>>. Board managers generally manage water and related resources in the Watershed District, which includes portions of Falcon Heights, Lauderdale, Maplewood, Roseville and Saint Paul. Board managers are residents of the watershed district and serve a three-year term.

There are currently three vacancies on the CRWD Board of Managers due to term expirations. Recruitment through the County's Open Appointment resulted in five applications, two from incumbents. On September 4, 2020, the Chief Clerk's Office forwarded the applications to the commissioners for review and recommendation.

County Goals (Check those advanced by Action)

☐ Well-being ☐ Prosperity ☒ Opportunity ☒ Accountability

Racial Equity Impact

The County currently recruits for advisory committee vacancies through an open process, which is currently limited to presence on the county website, GovDelivery distribution lists, and word of mouth by advisory committee members, staff and county commissioners. Plans are being created to implement changes to recruitment strategies to expand efforts to increase racial diversity and under-represented voices in the appointment process.

Community Participation Level and Impact

Participation by and input from community members appointed to advisory groups helps to shape and improve programs and services for the community, share information and increase the level of understanding through discussion, dialogue and engagement.

☒ Inform ☒ Consult ☒ Involve ☐ Collaborate ☐ Empower

Fiscal Impact

Representatives on Ramsey County advisory boards and committees do not receive County compensation; they contribute their time and expertise to provide guidance and oversight to County policies and programs. As a separate local jurisdiction, the Capitol Region Watershed District policy has provisions for per diem payments to appointed managers.

County Manager Comments

Appointments to Ramsey County advisory boards and committee are made by the Ramsey County Board of Commissioners. For more information on the Capitol Region Watershed District, please visit <https://www.capitolregionwd.org/>.

Last Previous Action

On September 26, 2017, the County Board appointed Joe Collins and Rick Sanders to the Capitol Region Watershed District Board of Manager for a term that ends September 30, 2020 (B2017-243)

Attachments

1. Membership Roster - September 2020

Capitol Region Watershed District Board of Managers – Ramsey County Roster

Total number of Ramsey County Appointees: 5

<u>Appointee Name</u>	<u>District</u>	<u>Term Expiration</u>	<u>Member Since</u>
1. Rick Sanders - pending	2	9/30/2023	2017
2. Shawn Murphey	2	9/30/2022	2019
3. Joseph P. Collins- pending	3	9/30/2023	2004
4. Hawona Sullivan Janzen - pending	3	9/30/2023	2005
5. Mary E. Texer	4	9/30/2022	2010

Board of Commissioners

Request for Board Action

Item Number: 2020-410

Meeting Date: 10/6/2020

Sponsor: Board of Commissioners

Title

Appointment to the Disabled Veterans Rest Camp Board of Managers

Recommendation

Appoint David Sullivan-Nightengale to the Disabled Veterans Rest Camp Board of Managers for a term beginning with date of appointment and ending August 1, 2022.

Background

Board managers of the Disabled Veterans Rest Camp direct operations of the camp, which is located on Big Marine Lake. The Board of Managers is made up of representatives appointed by the Ramsey and Washington County Boards, the Disabled American Veterans, the Veterans of Foreign Wars and the American Legion. Members of the Disabled Veterans Rest Camp Board must be veterans.

There is currently one vacancy on the Board of Managers due to a term expiration. Recruitment resulted in one application. On August 19, 2020, the Chief Clerk's Office forwarded the application to the commissioners for review and recommendation.

County Goals (Check those advanced by Action)

☐ Well-being

☐ Prosperity

☒ Opportunity

☒ Accountability

Racial Equity Impact

The County currently recruits for advisory committee vacancies through an open process, which is currently limited to presence on the county website, GovDelivery distribution lists, and word of mouth by advisory committee members, staff and county commissioners. Plans are being created to implement changes to recruitment strategies to expand efforts to increase racial diversity and under-represented voices in the appointment process.

Community Participation Level and Impact

Participation by and input from community members appointed to advisory groups helps to shape and improve programs and services for the community, share information and increase the level of understanding through discussion, dialogue and engagement.

☒ Inform

☒ Consult

☒ Involve

☐ Collaborate

☐ Empower

Fiscal Impact

Representatives on Ramsey County advisory boards and committees do not receive County compensation; they contribute their time and expertise to provide guidance and oversight to County policies and programs.

County Manager Comments

Appointments to Ramsey County advisory boards and committee are made by the Ramsey County Board of

Commissioners. For more information on the Disabled Veterans Rest Camp Board of Managers, please visit <http://www.vetscampmn.org/>.

Last Previous Action

None.

Attachments

1.Membership Roster - September 2020

Disabled Veterans Rest Camp Board of Managers – Ramsey County Roster

Total number of Ramsey County Appointees: 2

<u>Appointee Name</u>	<u>District</u>	<u>Term Expiration</u>	<u>Member Since</u>
1. Kevin Gunderson	7	8/1/21	2012
2. David Sullivan-Nightengale (pending)	3	8/1/22	