



LE SUEUR CITY COUNCIL AGENDA
Monday, February 8, 2016
203 South Second Street
6:30 P.M.

1. Call to Order
2. Pledge of Allegiance
3. Norms of Behavior
4. Approval of the Agenda
5. Presentations – None
6. **Consent Agenda** – All items on the Consent Agenda are considered routine and have been made available to the City Council at least two days in advance of the meeting; the items will be enacted in one motion. There will be no separate discussion of these items unless a Council member or citizen so requests, in which event the item will be removed from this agenda and considered in normal sequence.
 - A. Approval of Minutes
 1. Regular Meeting of January 25, 2016.
 - B. Resolution Approving Disbursements for Period Ending February 8, 2016.
 - C. Personnel Actions.
 - D. Housing and Redevelopment Authority Meeting Minutes of December 16, 2015.
7. Items of Appreciation
8. **Public Comment** – Public Comment provides an opportunity for the public to address the Council on items that are not on the Agenda. Comments will be limited to three (3) minutes per person. Persons wishing to make a comment must contact the Mayor prior to being allowed to speak.
9. Public Hearings
10. Regular Agenda
 - A. Consider Becoming a Signatory to a Rulemaking Petition to Amend Riverine Standards
 - B. Consider Proposal From SEH for Odor Monitoring and Technical Support
 - C. Miscellaneous
 - D. Adjourn

A Regular Meeting of the City Council was held on Monday, January 25, 2016 at 6:30 p.m. in the Council Chambers with Mayor Broeder presiding. Council Members present: Johnson, Wilke, Kerkow, Wicks, and Huntington. Council Members absent: Rohloff. City Administrator Jenelle Teppen, City Attorney Todd Coryell, Chelsea Alger, and Joe Fiedler were also present.

A motion by Council Member Huntington, seconded by Council Member Johnson approving the agenda as written. Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington, and Mayor Broeder. Voting no: None. Motion carried.

A motion by Council Member Wicks, seconded by Council Member Wilke to adopt Resolution #16-005 approving the following consent agenda items:

- Regular Meeting Minutes of January 11, 2016;;
- Approving the disbursements for period ending January 11, 2016 in the amount of \$359,404.51;

Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington, and Mayor Broeder. Voting no: None. Motion carried.

Mayor Broeder opened the public hearing at 6:35 p.m. to hear public comment on the Small Cities Development Grant Application.

No one from the public was in attendance to comment.

The public hearing was closed at 6:40 p.m.

A motion by Council Member Johnson, seconded by Council Member Huntington to adopt Resolution #16-006 authorizing the Mayor and City Administrator to proceed with the application for the Minnesota Department of Employment and Economic Development (DEED) Small Cities Development Program and also request funding from DEED for said program and more clearly stated in said Resolution #16-006. Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington, and Mayor Broeder. Voting no: None. Motion carried.

A motion by Council Member Huntington, seconded by Council Member Wicks to adopt Resolution #16-007 extending the 2014 SUV Squad Lease with the State of Minnesota until the year 2017 or 110,000 miles and entering into a new four year lease for a 2016 SUV Squad to replace the 2010 Crown Victoria and more clearly stated in said Resolution #16-007. Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington, and Mayor Broeder. Voting no: None. Motion carried.

A motion by Council Member Wick, seconded by Council Member Johnson to adopt Resolution #16-008 approving the permit fee reduction program for 2016 in an amount not to exceed \$50,000 and more clearly stated in said Resolution #16-008. Voting in favor: Council Members Johnson, Wilke, Wicks, Huntington, and Mayor Broeder. Voting no: Council Member Kerkow. Motion carried.

Property owner Joe Fiedler, 207 Market Street, was present and spoke to the Council regarding a nuisance violation at his property.

A motion by Council Member Huntington, seconded by Council Member Kerkow to adopt Resolution #16-009 finding the property located at 207 Market Street is in violation of the City Code Chapter 97.07 and is constituted a public nuisance and more clearly stated in said Resolution #16-009. Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington and Mayor Broeder. Voting no: None. Motion carried.

A motion by Council Member Kerkow, seconded by Council Member Wicks to adopt Resolution #16-010 approving the requests for donation funding from Youth Opportunities (\$10,000), Le Sueur Little League Baseball (\$750), Chamber of Commerce (\$6,250), Southern Minnesota Initiative Foundation (\$1,000) and the Habitat for Humanity (\$5,000) for a total of \$25,000 and more clearly stated in said Resolution 16-010. Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington, and Mayor Broeder. Voting no: None. Motion carried.

Council Member Huntington advised he will be meeting with former Cable Commission Chair Pat Goggin to further outline for the Council the status of the commission.

Council Member Kerkow provided an outline from the Le Sueur Housing and Redevelopment Authorities Audit Document regarding the relationship between the City and the HRA. He's requested assistance of City Attorney Coryell to better outline this relationship.

Council Member Johnson provided an update on the Comprehensive Plan.

A motion by Council Member Huntington, seconded by Council Member Wilke to adjourn. Voting in favor: Council Members Johnson, Wilke, Kerkow, Wicks, Huntington, and Mayor Broeder. Voting no: None. Motion carried.

Robert Broeder, Mayor

ATTEST:

Monica Muchow, City Clerk



Council Approval Report for February 8, 2016

By Fund

Post Dates 01/26/2016 - 02/08/2016

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
Fund: 101 - GENERAL FUND					
101-15502	I.U.O.E. LOCAL 49	MARCH 2016 HEALTH	INV0002718	101-15502	4,440.00
101-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	101-20702	17.57
101-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	101-20702	27,859.59
101-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002658	101-21701	7.20
101-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	101-21701	4,367.82
101-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002660	101-21702	2.57
101-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	101-21702	1,706.23
101-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	101-21703	2,918.66
101-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	101-21704	3,351.22
101-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002687	101-21704	4,885.54
101-21705	LINCOLN NATIONAL LIFE	February Premium	INV0002701	101-21705	437.63
101-21707	L.E.L.S.	UNION DUES	INV0002689	101-21707	196.00
101-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	101-21709	280.26
101-21711	NCPERS MINNESOTA	February Premium	INV0002700	101-21711	15.98
101-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002657	101-21712	1.40
101-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	101-21712	1,186.48
101-21713	AXA EQUITABLE	AXA EQUITABLE DEFERRED	INV0002682	101-21713	216.17
101-21718	FIRST FARMERS & MERCHANTS	BRINKER DEFERRED COMP	INV0002680	101-21718	533.98
101-21719	FIRST FARMERS & MERCHANTS	HCSF	INV0002684	101-21719	1,058.33
101-21719	FIRST FARMERS & MERCHANTS	HCSF	INV0002685	101-21719	560.58
101-4-32185	CATV	4TH QUARTER FRANCHISE FEES	INV0002623	101-4-32185	4,394.83
					58,438.04
Department: 41110 - CITY COUNCIL					
101-41110-331	ROBERT BROEDER	TRAVEL EXPENSE	INV0002624	101-41110-331	28.62
					Department 41110 - CITY COUNCIL Total: 28.62
Department: 41320 - CITY ADMINISTRATOR					
101-41320-331	JENELLE TEPPEN	TRAVEL EXPENSE	INV0002720	101-41320-331	231.12
101-41320-437	CRAIG RAPP, LLC	LEADERSHIP DEVELOPMENT	16.1.01	101-41320-437	1,350.00
101-41320-437	CARDMEMBER SERVICE	JANUARY 2016 STATEMENT	INV0002707	101-41320-437	1,000.19
					Department 41320 - CITY ADMINISTRATOR Total: 2,581.31
Department: 41430 - CITY CLERK					
101-41430-201	INNOVATIVE OFFICE SOLUTIONS	OFFICE SUPPLIES	IN1060478	101-41430-201	80.38
101-41430-202	MARCO	QUARTERLY COPIER EXPENSE	INV3084639	101-41430-202	76.06
101-41430-321	DEX MEDIA EAST LLC	DIRECTORY ADVERTISING	INV0002704	101-41430-321	38.00
101-41430-321	MARCO	PREFERRED SERVICES	INV03076638	101-41430-321	990.00
101-41430-321	MARCO	MANAGE SERVICES	INV3029421	101-41430-321	225.00
101-41430-321	MARCO	MANAGE SERVICES	INV3094016	101-41430-321	225.00
101-41430-321	MARCO	MANAGE SERVICES	INV3100860	101-41430-321	208.34
101-41430-433	CGMC	2016 CGMC DUES ASSESSMENTS	INV0002622	101-41430-433	3,341.50
101-41430-437	MAYER SOFT WATER-CULLIGAN	WATER COOLER	211842	101-41430-437	42.00
101-41430-437	SECRETARY OF STATE	NOTARY	INV0002636	101-41430-437	120.00
					Department 41430 - CITY CLERK Total: 5,346.28
Department: 41910 - PLANNING AND ZONING					
101-41910-354	PETTY CASH FUND	POSTAGE	INV0002721	101-41910-354	1.42
					Department 41910 - PLANNING AND ZONING Total: 1.42
Department: 41940 - GOVERNMENT BUILDINGS					
101-41940-383	CENTER POINT ENERGY	GAS UTILITIES-6067088-2	INV0002619	101-41940-383	507.14
					Department 41940 - GOVERNMENT BUILDINGS Total: 507.14
Department: 42120 - POLICE DEPARTMENT					
101-42120-201	QUILL CORPORATION	OFFICE SUPPLIES	2341999	101-42120-201	165.01
101-42120-201	QUILL CORPORATION	OFFICE SUPPLIES	2415948	101-42120-201	4.75

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
101-42120-201	QUILL CORPORATION	OFFICE SUPPLIES	2568357	101-42120-201	74.60
101-42120-201	QUILL CORPORATION	OFFICE SUPPLIES	2639194	101-42120-201	34.19
101-42120-201	QUILL CORPORATION	OFFICE SUPPLIES	2639457	101-42120-201	34.18
101-42120-201	LESUEUR POST OFFICE	2 ROLLS OF FOREVER STAMPS	INV0002706	101-42120-201	98.00
101-42120-201	PETTY CASH FUND	POSTAGE	INV0002721	101-42120-201	34.41
101-42120-217	STREICHER'S INC	UNIFORMS	I1190842	101-42120-217	34.99
101-42120-217	STREICHER'S INC	UNIFORMS	I1193050	101-42120-217	892.50
101-42120-321	FRONTIER COMMUNICATIONS	PHONE SERVICE	INV0002630	101-42120-321	83.64
101-42120-321	MARCO	PREFERRED SERVICES	INV03076638	101-42120-321	360.00
101-42120-321	MARCO	MANAGE SERVICES	INV3029421	101-42120-321	150.00
101-42120-321	MARCO	MANAGE SERVICES	INV3094016	101-42120-321	150.00
101-42120-321	MARCO	MANAGE SERVICES	INV3100860	101-42120-321	75.76
101-42120-383	CENTER POINT ENERGY	GAS UTILITIES-6067088-2	INV0002619	101-42120-383	249.79
101-42120-437	RADERMACHER'S	MISC OFFICE SUPPLIES-3313	INV0002633	101-42120-437	77.32
Department 42120 - POLICE DEPARTMENT Total:					2,519.14
Department: 42140 - POLICE TRAINING					
101-42140-331	LEAGUE OF MN CITIES	ON LINE PATROL TRAINING	225399	101-42140-331	680.00
Department 42140 - POLICE TRAINING Total:					680.00
Department: 42152 - POLICE AUTOMOTIVE SERVICES					
101-42152-431	NORTHERN SAFETY	RADIO BRACKET	40499	101-42152-431	71.87
101-42152-431	NAPA AUTO PARTS	SQUAD MAINTENANCE	416877	101-42152-431	5.11
101-42152-431	NAPA AUTO PARTS	SQUAD MAINTENANCE	417742	101-42152-431	7.67
101-42152-438	VON ESSEN TOWING & REPAIR	TOW VEHICLE	5281	101-42152-438	110.00
Department 42152 - POLICE AUTOMOTIVE SERVICES Total:					194.65
Department: 42401 - BUILDING CODE ENFORCEMENT					
101-42401-201	PETTY CASH FUND	POSTAGE	INV0002721	101-42401-201	13.48
101-42401-408	CITY BLDG INSPECTION	BUILDING INSPECTION SERVICES 351		101-42401-408	3,799.81
101-42401-408	CITY BLDG INSPECTION	BUILDING INSPECTION SERVICES 352		101-42401-408	130.00
Department 42401 - BUILDING CODE ENFORCEMENT Total:					3,943.29
Department: 42500 - POLICE RESERVES					
101-42500-383	CENTER POINT ENERGY	GAS UTILITIES-5981086-1	INV0002662	101-42500-383	100.58
Department 42500 - POLICE RESERVES Total:					100.58
Department: 42700 - ANIMAL CONTROL					
101-42700-311	MINNESOTA CRITTER GETTER	JANUARY ANIMAL CONTROL	INV0002634	101-42700-311	1,122.00
Department 42700 - ANIMAL CONTROL Total:					1,122.00
Department: 43121 - STREET DEPARTMENT					
101-43121-215	G & K SERVICES INC	TOWEL SERVICE	1002472098	101-43121-215	37.41
101-43121-215	G & K SERVICES INC	TOWEL SERVICE	1002495035	101-43121-215	37.41
101-43121-215	G & K SERVICES INC	TOWEL SERVICE	1002518076	101-43121-215	37.41
101-43121-215	FASTENAL COMPANY	SHOP SUPPLIES	MNSTP63378	101-43121-215	34.85
101-43121-221	LITTLE FALLS MACHINE INC	PLOW	00057507	101-43121-221	8,195.00
101-43121-221	NAPA AUTO PARTS	SWEEPER	417240	101-43121-221	172.48
101-43121-221	NAPA AUTO PARTS	EQUIPMENT PARTS	417531	101-43121-221	19.49
101-43121-221	NAPA AUTO PARTS	TORO SWEEPER	417632	101-43121-221	10.47
101-43121-221	NAPA AUTO PARTS	SERVICE CHARGE	INV0002635	101-43121-221	5.00
101-43121-222	LABELLE'S ALIGNMENT	TIRE TUBE TORO	18126	101-43121-222	10.69
101-43121-321	MARCO	PREFERRED SERVICES	INV03076638	101-43121-321	630.00
101-43121-321	MARCO	MANAGE SERVICES	INV3029421	101-43121-321	175.00
101-43121-321	MARCO	MANAGE SERVICES	INV3094016	101-43121-321	175.00
101-43121-321	MARCO	MANAGE SERVICES	INV3100860	101-43121-321	113.64
101-43121-321	MARCO	MANAGE SERVICES	INV3100860	101-43121-321	132.58
101-43121-383	CENTER POINT ENERGY	GAS UTILITIES-5961974-2	INV0002618	101-43121-383	897.79
Department 43121 - STREET DEPARTMENT Total:					10,684.22
Department: 43200 - CITY-WIDE CLEANUP					
101-43200-343	APG MEDIA OF SOUTHERN	PUBLICATIONS	55196660	101-43200-343	3,715.20
Department 43200 - CITY-WIDE CLEANUP Total:					3,715.20

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
Department: 44000 - SAFETY & WELLNESS					
101-44000-314	MMUA	1ST QTR ELECTRIC/SAFETY	46538	101-44000-314	3,650.00
Department 44000 - SAFETY & WELLNESS Total:					3,650.00
Department: 45201 - PARK DEPARTMENT					
101-45201-383	CENTERPOINT ENERGY	GAS UTILITIES-5961978-3	INV0002641	101-45201-383	466.81
Department 45201 - PARK DEPARTMENT Total:					466.81
Department: 45500 - LIBRARY MAINTENANCE					
101-45500-383	CENTERPOINT ENERGY	GAS UTILITIES-5992410-0	INV0002642	101-45500-383	350.60
101-45500-401	SPS COMPANIES, INC.	WATER HEATER	S3190076.001	101-45500-401	272.86
Department 45500 - LIBRARY MAINTENANCE Total:					623.46
Department: 49200 - UNALLOCATED EXPENDITURES					
101-49200-355	MAGC	WORKSHOP	155VWLSE	101-49200-355	10.00
101-49200-355	STACY LAWRENCE	JANUARY 2016 PROFESSIONAL	2016-1B	101-49200-355	690.00
101-49200-355	MARCO	QUARTERLY COPIER EXPENSE	INV3084639	101-49200-355	303.55
101-49200-444	CATV	COUNCIL MEETING TAPING	7951920	101-49200-444	420.00
101-49200-455	APG MEDIA OF SOUTHERN	PUBLICATIONS	55196660	101-49200-455	72.00
Department 49200 - UNALLOCATED EXPENDITURES Total:					1,495.55
Department: 49220 - WORKER'S COMP					
101-49220-151	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	101-49220-151	32,388.40
Department 49220 - WORKER'S COMP Total:					32,388.40
Fund 101 - GENERAL FUND Total:					128,486.11
Fund: 225 - FIRE SERVICE FUND					
Department: 42200 - FIRE SERVICE					
225-42200-151	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	225-42200-151	7,287.39
225-42200-207	SASCS	TRAINING	1671	225-42200-207	300.00
225-42200-221	KIRVIDA FIRE, INC.	TRUCK REPAIR	5269	225-42200-221	361.95
225-42200-323	ALPHA-WIRELESS	SUPPLIES	200050	225-42200-323	52.00
225-42200-383	CENTER POINT ENERGY	GAS UTILITIES-5992392-0	INV0002620	225-42200-383	763.61
225-42200-400	HCS	JANITORIAL SERVICES	INV0002703	225-42200-400	125.00
225-42200-437	VICKERS CONSULTING SERVICE	AFG GRANT APPLICATION	023937	225-42200-437	600.00
225-42200-437	COLE PAPERS INC.	SUPPLIES	9171057	225-42200-437	203.42
225-42200-437	CARDMEMBER SERVICE	DEVICE PURCHASE	INV0002715	225-42200-437	199.75
Department 42200 - FIRE SERVICE Total:					9,893.12
Fund 225 - FIRE SERVICE FUND Total:					9,893.12
Fund: 226 - AMBULANCE SERVICE FUND					
226-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	226-20702	37.49
226-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	226-21701	5.03
226-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	226-21702	2.21
226-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	226-21703	6.36
226-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	226-21704	7.41
226-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	226-21712	1.48
226-21719	FIRST FARMERS & MERCHANTS	HCSP	INV0002685	226-21719	0.54
226-6-34204	DONALD PFARR	REIMBURSE FOR OVERPAYMENT	INV0002663	226-6-34204	127.65
226-6-34204	DALE HAGBERG	REIMBURSE FOR OVERPAYMENT	INV0002664	226-6-34204	14.00
					202.17
Department: 42153 - AMBULANCE SERVICES					
226-42153-151	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	226-42153-151	2,429.13
226-42153-201	QUILL CORPORATION	OFFICE SUPPLIES	2568357	226-42153-201	129.50
226-42153-206	G & K SERVICES INC	LINEN SERVICE	1002483559	226-42153-206	183.94
226-42153-206	G & K SERVICES INC	LINEN SERVICE	1002506520	226-42153-206	187.41
226-42153-207	ARROWHEAD EMS CONFERENCE	ARROWHEAD CONFERENCE	10532	226-42153-207	700.00
226-42153-207	SOUTH CENTRAL MN EMS	PEPP CLASS	INV0002625	226-42153-207	40.00
226-42153-207	SOUTH CENTRAL MN EMS	PEPP CLASS	INV0002626	226-42153-207	40.00
226-42153-212	SA FLEET ONE LLC	FUEL	4477250051	226-42153-212	175.08
226-42153-212	HOLIDAY CREDIT OFFICE	FUEL	INV0002631	226-42153-212	31.28
226-42153-212	PETTY CASH FUND	POSTAGE	INV0002721	226-42153-212	2.12
226-42153-220	WOLF MOTOR CO., INC.	AMBULANCE MAINTENANCE	9030786	226-42153-220	1,382.17

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
226-42153-321	MARCO	PREFERRED SERVICES	INV03076638	226-42153-321	540.00
226-42153-321	MARCO	MANAGE SERVICES	INV3029421	226-42153-321	150.00
226-42153-321	MARCO	MANAGE SERVICES	INV3094016	226-42153-321	150.00
226-42153-331	CHAD NEPPER	EMS CONFERENCE	INV0002627	226-42153-331	621.59
226-42153-331	KEN DOEBBLING	EMS CONFERENCE	INV0002628	226-42153-331	604.59
226-42153-331	MARVIN SULLIVAN	EMS CONFERENCE	INV0002629	226-42153-331	696.80
226-42153-383	CENTER POINT ENERGY	GAS UTILITIES-5981086-1	INV0002662	226-42153-383	100.58
226-42153-437	MARTY SULLIVAN	PEPP CLASS	INV0002632	226-42153-437	92.66

Department 42153 - AMBULANCE SERVICES Total: 8,256.85

Fund 226 - AMBULANCE SERVICE FUND Total: 8,459.02

Fund: 227 - PARA-TRANSIT FUND

227-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	227-20702	2,958.96
227-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002658	227-21701	18.10
227-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	227-21701	363.04
227-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002660	227-21702	6.61
227-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	227-21702	162.50
227-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002659	227-21703	16.40
227-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	227-21703	544.30
227-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002656	227-21704	18.52
227-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	227-21704	667.81
227-21711	MN CHILD SUPPORT PAYMENT	REMITTANCE IDENTIFIER:	INV0002655	227-21711	54.51
227-21711	MN CHILD SUPPORT PAYMENT	REMITTANCE IDENTIFIER:	INV0002681	227-21711	356.72
227-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002657	227-21712	3.82
227-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	227-21712	127.28
227-21713	AXA EQUITABLE	AXA EQUITABLE DEFERRED	INV0002682	227-21713	50.00
227-21719	FIRST FARMERS & MERCHANTS	HCSF	INV0002685	227-21719	50.97

5,399.54

Department: 49800 - EQUIPMENT, MAINT, GARAGE

227-49800-221	WOLF MOTOR CO., INC.	MAINTENANCE	9029359/1	227-49800-221	528.27
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Department 49800 - EQUIPMENT, MAINT, GARAGE Total: 528.27

Department: 49804 - ADMINISTRATION

227-49804-151	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	227-49804-151	1,619.42
227-49804-321	MARCO	PREFERRED SERVICES	INV03076638	227-49804-321	630.00
227-49804-321	MARCO	MANAGE SERVICES	INV3029421	227-49804-321	175.00
227-49804-321	MARCO	MANAGE SERVICES	INV3094016	227-49804-321	175.00
227-49804-321	MARCO	MANAGE SERVICES	INV3100860	227-49804-321	132.58
227-49804-343	APG MEDIA OF SOUTHERN	PUBLICATIONS	55196660	227-49804-343	326.00
227-49804-383	CENTER POINT ENERGY	GAS UTILITIES-5981086-1	INV0002662	227-49804-383	100.59

Department 49804 - ADMINISTRATION Total: 3,158.59

Fund 227 - PARA-TRANSIT FUND Total: 9,086.40

Fund: 229 - CABLE TV FUND

229-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	229-20702	448.73
229-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	229-21701	55.28
229-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	229-21702	26.08
229-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	229-21703	71.18
229-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	229-21712	16.64

617.91

Fund 229 - CABLE TV FUND Total: 617.91

Fund: 235 - AIRPORT FUND

Department: 49810 - AIRPORT ADMINISTRATION

235-49810-326	SCOTT'S HELICOPTER SERVICE	FBO AGREEMENT	INV0002717	235-49810-326	238.70
235-49810-382	SCOTT'S HELICOPTER SERVICE	FBO AGREEMENT	INV0002717	235-49810-382	175.00
235-49810-383	CENTER POINT ENERGY	GAS UTILITIES	INV0002617	235-49810-383	166.73

Department 49810 - AIRPORT ADMINISTRATION Total: 580.43

Fund 235 - AIRPORT FUND Total: 580.43

Fund: 240 - HRA FUND

240-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	240-20702	1,576.05
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Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
240-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	240-21701	306.02
240-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	240-21702	115.70
240-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	240-21703	283.60
240-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	240-21704	340.70
240-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	240-21709	10.18
240-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	240-21712	66.32
240-21719	FIRST FARMERS & MERCHANTS	HCSP	INV0002685	240-21719	73.07
					2,771.64
Fund 240 - HRA FUND Total:					2,771.64
Fund: 250 - YOUTH OPPORTUNITIES FUND					
250-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	250-20702	692.62
250-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	250-21703	93.00
250-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	250-21712	21.76
					807.38
Fund 250 - YOUTH OPPORTUNITIES FUND Total:					807.38
Fund: 477 - NO HWY 169 FRONTAGE ROAD					
Department: 43121 - STREET DEPARTMENT					
477-43121-437	US HWY 169 CORRIDOR	2016 MEMBERSHIP	INV0002621	477-43121-437	1,000.00
Department 43121 - STREET DEPARTMENT Total:					1,000.00
Fund 477 - NO HWY 169 FRONTAGE ROAD Total:					1,000.00
Fund: 601 - WATER UTILITY FUND					
601-14100	SPS COMPANIES, INC.	FITTINGS	S3177435.001A	601-14100	109.85
601-15502	I.U.O.E. LOCAL 49	MARCH 2016 HEALTH	INV0002718	601-15502	2,035.00
601-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	601-20702	4,172.34
601-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	601-21701	468.14
601-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	601-21702	197.93
601-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	601-21703	720.82
601-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	601-21704	791.80
601-21705	LINCOLN NATIONAL LIFE	February Premium	INV0002701	601-21705	34.59
601-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	601-21709	57.61
601-21711	NCPERS MINNESOTA	February Premium	INV0002700	601-21711	22.06
601-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	601-21712	168.60
601-21713	AXA EQUITABLE	AXA EQUITABLE DEFERRED	INV0002682	601-21713	25.00
601-21718	FIRST FARMERS & MERCHANTS	BRINKER DEFERRED COMP	INV0002680	601-21718	180.76
601-21719	FIRST FARMERS & MERCHANTS	HCSP	INV0002685	601-21719	75.18
					9,059.68
Department: 49400 - SOURCE OF SUPPLY					
601-49400-404	CINTAS CORPORATION LOC.	UNIFORMS/ RUG SERVICE	754547148	601-49400-404	138.82
Department 49400 - SOURCE OF SUPPLY Total:					138.82
Department: 49410 - POWER AND PUMPING					
601-49410-221	BATTERIES PLUS	BULBS	023-103103-01	601-49410-221	17.94
601-49410-388	CENTER POINT ENERGY	GAS UTILITIES-5981106-7	INV0002616	601-49410-388	312.71
Department 49410 - POWER AND PUMPING Total:					330.65
Department: 49420 - PURIFICATION					
601-49420-312	UTILITY CONSULTANTS INC	LAB TESTING	91029	601-49420-312	70.00
Department 49420 - PURIFICATION Total:					70.00
Department: 49435 - WATER METERING					
601-49435-246	MINNESOTA PIPE & EQUIPMENT	GASKETS	0350697	601-49435-246	154.54
Department 49435 - WATER METERING Total:					154.54
Department: 49440 - ADMINISTRATION & GENERAL					
601-49440-201	INNOVATIVE OFFICE SOLUTIONS	SUPPLIES	IN1053943	601-49440-201	18.08
601-49440-201	INNOVATIVE OFFICE SOLUTIONS	SUPPLIES	IN1053944	601-49440-201	1.25
601-49440-201	INNOVATIVE OFFICE SOLUTIONS	SUPPLIES	IN1055545	601-49440-201	11.69
601-49440-201	INNOVATIVE OFFICE SOLUTIONS	COMPUTER SUPPLIES	IN1059116	601-49440-201	23.03
601-49440-201	INNOVATIVE OFFICE SOLUTIONS	SUPPLIES	IN1062583	601-49440-201	35.41
601-49440-217	CINTAS CORPORATION LOC.	UNIFORMS/ RUG SERVICE	754547148	601-49440-217	49.27
601-49440-217	CINTAS CORPORATION LOC.	UNIFORMS	754549727	601-49440-217	87.47

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
601-49440-217	CINTAS CORPORATION LOC.	UNIFORMS	754552412	601-49440-217	42.59
601-49440-220	NAPA AUTO PARTS	WASH FLUID & OIL	417661	601-49440-220	6.93
601-49440-309	NEON LINK	MONTHLY SERVICE	1182	601-49440-309	490.04
601-49440-309	NEON LINK	FEBRUARY MONTHLY SERVICE	1184	601-49440-309	110.56
601-49440-309	MARCO	QUARTERKY COPIER EXPENSE	INV3084639	601-49440-309	25.36
601-49440-321	MARCO	PREFERRED SERVICES	INV03076638	601-49440-321	1,188.00
601-49440-321	MARCO	MANAGE SERVICES	INV3029421	601-49440-321	325.00
601-49440-321	MARCO	MANAGE SERVICES	INV3094016	601-49440-321	325.00
601-49440-321	MARCO	MANAGE SERVICES	INV3100860	601-49440-321	246.22
601-49440-322	PETTY CASH FUND	POSTAGE	INV0002721	601-49440-322	2.00
601-49440-355	STACY LAWRENCE	JANUARY 2016 PROFESSIONAL	2016-1B	601-49440-355	138.00
601-49440-355	MARCO	QUARTERKY COPIER EXPENSE	INV3084639	601-49440-355	60.71
601-49440-362	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	601-49440-362	6,477.68
601-49440-425	MN DEPT OF PUBLIC SAFETY	ANNUAL FEE- HAZ MAT	4007000412015 M-76875	601-49440-425	100.00
601-49440-436	GOPHER STATE ONE CALL	ANNUAL FEE	6000505	601-49440-436	50.00
601-49440-437	CGMC	2016 CGMC DUES ASSESSMENTS	INV0002622	601-49440-437	668.30
601-49440-437	MN DNR ECO-WATER-RES	WATER PERMIT FEE	INV0002695	601-49440-437	3,345.51
601-49440-437	CARDMEMBER SERVICE	JANUARY 2016 STATEMENT	INV0002707	601-49440-437	500.09
Department 49440 - ADMINISTRATION & GENERAL Total:					14,328.19
Fund 601 - WATER UTILITY FUND Total:					24,081.88

Fund: 602 - SEWER UTILITY FUND

602-15502	I.U.O.E. LOCAL 49	MARCH 2016 HEALTH	INV0002718	602-15502	2,035.00
602-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	602-20702	3,094.76
602-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	602-21701	420.17
602-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	602-21702	176.75
602-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	602-21703	559.76
602-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	602-21704	700.45
602-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	602-21709	54.26
602-21711	NCPERS MINNESOTA	February Premium	INV0002700	602-21711	22.02
602-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	602-21712	130.92
602-21713	AXA EQUITABLE	AXA EQUITABLE DEFERRED	INV0002682	602-21713	25.00
602-21718	FIRST FARMERS & MERCHANTS	BRINKER DEFERRED COMP	INV0002680	602-21718	161.77
602-21719	FIRST FARMERS & MERCHANTS	HCSP	INV0002685	602-21719	61.35
Department: 49490 - ADMINISTRATION & GENERAL					7,442.21

602-49490-201	INNOVATIVE OFFICE SOLUTIONS SUPPLIES		IN1053943	602-49490-201	18.08
602-49490-201	INNOVATIVE OFFICE SOLUTIONS SUPPLIES		IN1053944	602-49490-201	1.24
602-49490-201	INNOVATIVE OFFICE SOLUTIONS SUPPLIES		IN1055545	602-49490-201	11.68
602-49490-201	INNOVATIVE OFFICE SOLUTIONS COMPUTER SUPPLIES		IN1059116	602-49490-201	23.03
602-49490-201	INNOVATIVE OFFICE SOLUTIONS SUPPLIES		IN1062583	602-49490-201	35.40
602-49490-217	CINTAS CORPORATION LOC.	UNIFORMS/ RUG SERVICE	754547148	602-49490-217	49.26
602-49490-217	CINTAS CORPORATION LOC.	UNIFORMS	754549727	602-49490-217	87.47
602-49490-217	CINTAS CORPORATION LOC.	UNIFORMS	754552412	602-49490-217	42.58
602-49490-220	NAPA AUTO PARTS	WASH FLUID & OIL	417661	602-49490-220	6.93
602-49490-309	NEON LINK	MONTHLY SERVICE	1182	602-49490-309	490.03
602-49490-309	NEON LINK	FEBRUARY MONTHLY SERVICE	1184	602-49490-309	110.56
602-49490-309	MARCO	QUARTERKY COPIER EXPENSE	INV3084639	602-49490-309	25.36
602-49490-321	MARCO	PREFERRED SERVICES	INV03076638	602-49490-321	1,188.00
602-49490-321	MARCO	MANAGE SERVICES	INV3029421	602-49490-321	325.00
602-49490-321	MARCO	MANAGE SERVICES	INV3094016	602-49490-321	325.00
602-49490-321	MARCO	MANAGE SERVICES	INV3100860	602-49490-321	246.22
602-49490-355	STACY LAWRENCE	JANUARY 2016 PROFESSIONAL	2016-1B	602-49490-355	138.00
602-49490-355	MARCO	QUARTERKY COPIER EXPENSE	INV3084639	602-49490-355	60.71
602-49490-362	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	602-49490-362	6,477.68
602-49490-436	GOPHER STATE ONE CALL	ANNUAL FEE	6000505	602-49490-436	50.00
602-49490-437	CGMC	2016 CGMC DUES ASSESSMENTS	INV0002622	602-49490-437	668.30
602-49490-437	CARDMEMBER SERVICE	JANUARY 2016 STATEMENT	INV0002707	602-49490-437	500.10
Department 49490 - ADMINISTRATION & GENERAL Total:					10,880.63
Fund 602 - SEWER UTILITY FUND Total:					18,322.84

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
Fund: 604 - ELECTRIC UTILITY FUND					
604-11500	FERGUSON ENTERPRISES, INC	HILLSIDE CT	3787934	604-11500	5,426.40
604-11500	FERGUSON ENTERPRISES, INC	HILLSIDE CT	3788025	604-11500	2,582.09
604-11500	FERGUSON ENTERPRISES, INC	HILLSIDE CT	3818117	604-11500	102.48
604-11500	FERGUSON ENTERPRISES, INC	HILLSIDE CT	3820797	604-11500	186.35
604-15502	I.U.O.E. LOCAL 49	MARCH 2016 HEALTH	INV0002718	604-15502	4,810.00
604-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	604-20702	14,561.27
604-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	604-21701	2,258.52
604-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	604-21702	927.99
604-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	604-21703	2,654.40
604-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	604-21704	3,239.10
604-21705	LINCOLN NATIONAL LIFE	February Premium	INV0002701	604-21705	120.92
604-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	604-21709	256.63
604-21711	NCPERS MINNESOTA	February Premium	INV0002700	604-21711	59.92
604-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	604-21712	620.70
604-21713	AXA EQUITABLE	AXA EQUITABLE DEFERRED	INV0002682	604-21713	74.99
604-21718	FIRST FARMERS & MERCHANTS	BRINKER DEFERRED COMP	INV0002680	604-21718	684.49
604-21719	FIRST FARMERS & MERCHANTS	HCSF	INV0002685	604-21719	379.99
604-21720	AFLAC	JANUARY PREMIUM	INV0002698	604-21720	212.29
604-21725	AFLAC	JANUARY PREMIUM	INV0002698	604-21725	247.67
					39,406.20

Department: 49570 - TRANSMISSION & DISTRIBUTION

604-49570-207	MMUA	1ST QTR ELECTRIC/SAFETY	46538	604-49570-207	550.00
604-49570-221	LABELLE'S ALIGNMENT	VEHICLE REPAIRS	17976	604-49570-221	43.74
604-49570-221	LABELLE'S ALIGNMENT	VEHICLE REPAIRS	18019	604-49570-221	428.04
604-49570-221	LABELLE'S ALIGNMENT	VEHICLE REPAIRS	18026	604-49570-221	637.00
604-49570-221	NAPA AUTO PARTS	VEHICLE REPAIRS	417659	604-49570-221	53.39
604-49570-221	ALTEC INDUSTRIES, INC.	VEHICLE REPAIRS	5256592	604-49570-221	824.91
604-49570-221	ALTEC INDUSTRIES, INC.	VEHICLE REPAIRS	5259460	604-49570-221	592.84
604-49570-221	ALTEC INDUSTRIES, INC.	VEHICLE REPAIRS	5259471	604-49570-221	2,637.01
604-49570-221	K & R GRAPHICS	DECALS	9921	604-49570-221	193.74
604-49570-230	GOPHER STATE ONE CALL	LOCATES- ANNUAL FEE	6001053	604-49570-230	100.00
604-49570-231	LABELLE'S ALIGNMENT	TESTING	5009368888.001	604-49570-231	274.50
604-49570-233	ALTERNATIVE TECHNOLOGIES,	PCB TESTING	39570	604-49570-233	60.00
604-49570-235	DAKOTA SUPPLY GROUP	METER BATTERY	B882825	604-49570-235	76.95
604-49570-240	CARDMEMBER SERVICE	PHONE CASES	INV0002710	604-49570-240	15.00
604-49570-240	MARCO	EQUIPMENT	INV3091367	604-49570-240	1,850.50
604-49570-240	MARCO	EQUIPMENT	INV3101269	604-49570-240	481.51
604-49570-383	CENTER POINT ENERGY	GAS UTILITIES-5974324-5	INV0002702	604-49570-383	227.30
Department 49570 - TRANSMISSION & DISTRIBUTION Total:					9,046.43

Department: 49590 - ADMINISTRATION & GENERAL

604-49590-201	TWIST OFFICE PRODUCTS	SUPPLIES	741712-0	604-49590-201	244.95
604-49590-201	CARDMEMBER SERVICE	ONLINE BUSINESS CARDS	INV0002709	604-49590-201	47.51
604-49590-217	BORDER STATES ELEC SUPPLY	UNIFORMS	910694927	604-49590-217	1,776.52
604-49590-308	SCOTT HAMMER	CLOTHES WASHER REBATES	INV0002699	604-49590-308	25.00
604-49590-309	NEON LINK	MONTHLY SERVICE	1182	604-49590-309	1,470.11
604-49590-309	NEON LINK	FEBRUARY MONTHLY SERVICE	1184	604-49590-309	331.68
604-49590-313	DONNA HARDER	QI CENTRAL AC REBATE	INV0002697	604-49590-313	400.00
604-49590-321	MANKATO ANSWERING SERVICE	ANSWERING SERVICE	151200058	604-49590-321	300.29
604-49590-321	MANKATO ANSWERING SERVICE	ANSWERING SERVICE	16010045	604-49590-321	452.69
604-49590-321	MARCO	PREFERRED SERVICES	INV03076638	604-49590-321	2,394.00
604-49590-321	MARCO	MANAGE SERVICES	INV3029421	604-49590-321	675.00
604-49590-321	MARCO	MANAGE SERVICES	INV3094016	604-49590-321	675.00
604-49590-321	MARCO	MANAGE SERVICES	INV3100860	604-49590-321	511.38
604-49590-322	PETTY CASH FUND	POSTAGE	INV0002721	604-49590-322	3.54
604-49590-355	STACY LAWRENCE	JANUARY 2016 PROFESSIONAL	2016-1B	604-49590-355	414.00
604-49590-355	MARCO	QUARTERLY COPIER EXPENSE	INV3084639	604-49590-355	182.13
604-49590-362	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	604-49590-362	19,433.04
604-49590-434	ROBERT PATRIAS	ENERGY CREDIT	INV0002705	604-49590-434	474.07
604-49590-437	CW TECHNOLOGY	SERVER	CW31990	604-49590-437	161.25

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
604-49590-437	CGMC	2016 CGMC DUES ASSESSMENTS	INV0002622	604-49590-437	2,004.90
604-49590-437	CARDMEMBER SERVICE	JANUARY 2016 STATEMENT	INV0002707	604-49590-437	1,000.19
604-49590-437	CARDMEMBER SERVICE	SUPPLIES	INV0002708	604-49590-437	12.98
604-49590-437	ADVANTAGE COLLECTION	DEBT COLLECTION	INV0002716	604-49590-437	40.00
604-49590-437	MARCO	QUARTERKY COPIER EXPENSE	INV3084639	604-49590-437	126.77

Department 49590 - ADMINISTRATION & GENERAL Total: 33,157.00

Fund 604 - ELECTRIC UTILITY FUND Total: 81,609.63

Fund: 606 - MN RIVER VALLEY UTILITY COMM

606-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	606-20702	3,248.19
606-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	606-21701	461.57
606-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	606-21702	199.35
606-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	606-21703	562.20
606-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	606-21704	678.66
606-21705	LINCOLN NATIONAL LIFE	February Premium	INV0002701	606-21705	29.10
606-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	606-21709	29.44
606-21711	NCPERS MINNESOTA	February Premium	INV0002700	606-21711	8.02
606-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	606-21712	131.50
606-21719	FIRST FARMERS & MERCHANTS	H CSP	INV0002685	606-21719	60.83

5,408.86

Fund 606 - MN RIVER VALLEY UTILITY COMM Total: 5,408.86

Fund: 615 - RECREATION FUND

615-20702	FIRST FARMERS & MERCHANTS	02-05-2016 PAYROLL	INV0002694	615-20702	7,118.53
615-21701	FIRST FARMERS & MERCHANTS	FIT 941 TAXES	INV0002691	615-21701	635.56
615-21702	FIRST FARMERS & MERCHANTS	STATE TAX	INV0002693	615-21702	296.86
615-21703	FIRST FARMERS & MERCHANTS	SS 941 TAXES	INV0002692	615-21703	1,153.96
615-21704	FIRST FARMERS & MERCHANTS	PERA	INV0002686	615-21704	970.60
615-21705	LINCOLN NATIONAL LIFE	February Premium	INV0002701	615-21705	36.19
615-21709	LINCOLN NATIONAL LIFE	February Premium	INV0002701	615-21709	42.28
615-21712	FIRST FARMERS & MERCHANTS	MED 941 TAXES	INV0002690	615-21712	269.94
615-21713	AXA EQUITABLE	AXA EQUITABLE DEFERRED	INV0002682	615-21713	305.00
615-21719	FIRST FARMERS & MERCHANTS	H CSP	INV0002685	615-21719	65.85
615-21720	AFLAC	JANUARY PREMIUM	INV0002698	615-21720	39.48
615-6-34750	RENEE BESEKE	REFUND	INV0002653	615-6-34750	95.00
615-6-34758	GREGORY EUCLIDE	REFUND	INV0002644	615-6-34758	40.00
615-6-34758	ISD #2397	JANUARY 2016 COMMUNITY ED	INV0002661	615-6-34758	13,658.22

24,727.47

Department: 45120 - RECREATION ADMINISTRATION

615-45120-151	LEAGUE OF MINNESOTA CITIES	WORKER'S COMPENSATION	31338	615-45120-151	4,858.26
615-45120-201	INNOVATIVE OFFICE SOLUTIONS	OFFICE SUPPLIES	IN1055546	615-45120-201	144.30
615-45120-201	CARDMEMBER SERVICE	PROCESSING FEES	INV0002711	615-45120-201	300.00
615-45120-218	THE LIFEGUARD STORE	GOGGLES	INV326056	615-45120-218	14.25
615-45120-321	DEX MEDIA EAST LLC	DIRECTORY ADVERTISING	INV0002704	615-45120-321	88.65
615-45120-321	MARCO	PREFERRED SERVICES	INV03076638	615-45120-321	1,080.00
615-45120-321	MARCO	MANAGE SERVICES	INV3029421	615-45120-321	300.00
615-45120-321	MARCO	MANAGE SERVICES	INV3094016	615-45120-321	300.00
615-45120-321	MARCO	MANAGE SERVICES	INV3100860	615-45120-321	227.28
615-45120-322	CARDMEMBER SERVICE	STAMPS	INV0002712	615-45120-322	49.00
615-45120-322	CARDMEMBER SERVICE	STAMPS	INV0002714	615-45120-322	35.00
615-45120-343	RADERMACHER'S	CHAMBER COFEE BREAK-3325	INV0002639	615-45120-343	76.83
615-45120-343	CHAMBER OF COMMERCE	RETAIL & BUSINESS EXPO	INV0002645	615-45120-343	159.50
615-45120-383	CENTERPOINT ENERGY	GAS UTILITIES-6080892-0	INV0002643	615-45120-383	2,558.37
615-45120-433	NIHCA	ANNUAL MEMBERSHIP	90039	615-45120-433	399.00
615-45120-437	MAYER SOFT WATER-CULLIGAN	WATER COOLER	211912	615-45120-437	50.71
615-45120-437	RADERMACHER'S	SUPPLIES-3325	INV0002637	615-45120-437	28.06
615-45120-437	RADERMACHER'S	SUPPLIES-3325	INV0002638	615-45120-437	54.00
615-45120-437	RADERMACHER'S	SUPPLIES-3325	INV0002654	615-45120-437	22.27
615-45120-437	DIANNE GILBERT	REFUND	INV0002696	615-45120-437	26.25

Account Number	Vendor Name	Description (Item)	Payable Number	Account Number	Amount
615-45120-437	CARDMEMBER SERVICE	FIRST AID SUPPLIES	INV0002713	615-45120-437	29.75
Department 45120 - RECREATION ADMINISTRATION Total:					10,801.48
Department: 45122 - COMM CTR BUILDING MAINT					
615-45122-211	COLE PAPERS INC.	SUPPLIES	9171057	615-45122-211	464.31
615-45122-221	COLE PAPERS INC.	SUPPLIES	9173305	615-45122-221	61.10
615-45122-240	R & R SPECIALTIES, INC	SQUEEGEE	0059094-IN	615-45122-240	77.17
615-45122-240	VON ESSEN LOCKSMITH SERVICE	REKEYING DOORS	3537	615-45122-240	144.32
615-45122-240	COLE PAPERS INC.	SUPPLIES	9173304	615-45122-240	959.39
615-45122-401	STANLEY SECURITY SOLUTIONS	DOOR REPAIRS	13129605	615-45122-401	247.16
615-45122-401	STANLEY SECURITY SOLUTIONS	DOOR STRIKE REPLACEMENT	13135421	615-45122-401	1,193.94
615-45122-401	SJS MECHANICAL INC	INCIDENT REPORT WORK	1477	615-45122-401	75.00
615-45122-401	RETROFIT COMPANIES INC.	BULBS	S83882-IN	615-45122-401	159.60
615-45122-404	R & R SPECIALTIES, INC	RESURFACER PARTS	0059054-IN	615-45122-404	166.67
615-45122-404	SPS COMPANIES, INC.	BOILER PUMP REPAIR	S3197381.001	615-45122-404	174.83
Department 45122 - COMM CTR BUILDING MAINT Total:					3,723.49
Department: 45124 - OUTDOOR POOL EXPENDITURES					
615-45124-383	CENTERPOINT ENERGY	GAS UTILITIES-5981253-7	INV0002640	615-45124-383	23.72
Department 45124 - OUTDOOR POOL EXPENDITURES Total:					23.72
Fund 615 - RECREATION FUND Total:					39,276.16
Grand Total:					330,401.38

Report Summary

Fund Summary

Fund	Payment Amount
101 - GENERAL FUND	128,486.11
225 - FIRE SERVICE FUND	9,893.12
226 - AMBULANCE SERVICE FUND	8,459.02
227 - PARA-TRANSIT FUND	9,086.40
229 - CABLE TV FUND	617.91
235 - AIRPORT FUND	580.43
240 - HRA FUND	2,771.64
250 - YOUTH OPPORTUNITIES FUND	807.38
477 - NO HWY 169 FRONTAGE ROAD	1,000.00
601 - WATER UTILITY FUND	24,081.88
602 - SEWER UTILITY FUND	18,322.84
604 - ELECTRIC UTILITY FUND	81,609.63
606 - MN RIVER VALLEY UTILITY COMM	5,408.86
615 - RECREATION FUND	39,276.16
Grand Total:	330,401.38

THE PRECEDING LIST OF BILLS WAS REVIEWED AND APPROVED FOR PAYMENT.

DATE: February 8, 2016 APPROVED BY: _____

Jenelle Teppen
City Administrator



CITY OF LE SUEUR
REQUEST FOR COUNCIL ACTION

TO: Mayor and City Council
FROM: Jenelle Teppen, City Administrator
SUBJECT: Personnel Actions
DATE: For the City Council meeting of February 8, 2016

PURPOSE/ACTION REQUESTED

Approve the Personnel Actions listed below.

Please confirm the employment of Doug Erickson as a seasonal/temporary Bus Driver and the termination of Jessica Vogel – Part Time Lifeguard.

MINUTES OF THE REGULAR MEETING OF THE
LE SUEUR HOUSING AUTHORITY

December 16, 2015

The Regular Meeting of the Le Sueur Housing & Redevelopment Authority was called to order by Chairman Jeff Kerkow at 5:30 PM on Wednesday, December 16, 2015.

Commissioners Present: Jeff Kerkow, Jack King, Bill Mediger, Pam Williams, and Karen Fuller.
Commissioners Absent: None. Others present: None.

A motion by Commissioner King, seconded by Commissioner Fuller approving the minutes of the November 18, 2015 meeting as presented. All voting in favor. Motion carried.

A motion by Commissioner Williams, seconded by Commissioner Mediger approving the December bills paying with check #4832 thru check #4850 totaling \$14,907.24; the General Fund Report paying bills with check #1199 totaling \$363.36; 2 Capital Improvement Fund Reports; Investment Fund Report; and the Dining Fund Report. All voting in favor. Motion carried.

A motion by Commissioner Fuller, seconded by Commissioner Williams to adopt Resolution #781 approving our 2016 Flat Rent at \$424.00. All voting in favor. Motion carried.

Johannsen presented the following reports:

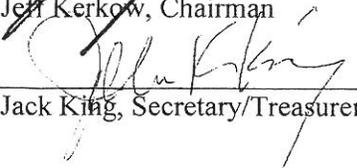
- ◆ Resident Repair Request Worksheet – all work orders are up to date.
- ◆ Vacant Apartment Update – We have one vacant apartment with a tenant passing away.
- ◆ November Monthly Report.
- ◆ Dining Site
- ◆ Our FYE 9/30/15 audit was done on December 4, 2015. The audit presentation will be in January
- ◆ One of our water heaters has gone out. The Board requested that the Executive Director obtain quotes for the replacement of the water heater.

The Board conducted the Employee Review for the Executive Director.

There being no further business to come before the Board, a motion by Commissioner Williams, seconded by Commissioner Fuller and duly carried to adjourn.



Jeff Kerkow, Chairman



Jack King, Secretary/Treasurer



CITY OF LE SUEUR
REQUEST FOR COUNCIL ACTION

TO: Mayor and City Council

FROM: Jenelle Teppen, City Administrator

SUBJECT: Consider Signing Rulemaking Petition

DATE: For the Council meeting of February 8, 2016

PURPOSE/ACTION REQUESTED

Consider signing a rulemaking petition.

SUMMARY

See the attached Memorandum and Resolution from the Coalition of Greater Minnesota Cities.

RECOMMENDATION

Staff recommend the Council consider signing the rulemaking petition.

MEMORANDUM

To: CGMC and MESERB Members

From: Christopher M. Hood, Shareholder Attorney; and
Robert T. Scott, Senior Attorney
Daniel M. Max, Associate Attorney

Date: January 15, 2016

Re: **Rulemaking Petition to MPCA**

The Coalition of Greater Minnesota Cities (CGMC) and Minnesota Environmental Science and Economic Review Board (MESERB) at their respective Fall membership meetings authorized filing a petition for rulemaking with the Minnesota Pollution Control Agency (MPCA) seeking to have the MPCA amend its newly adopted riverine standards based upon the post-rulemaking identification of new evidence, which demonstrates such rules have relied upon two factors (dissolved oxygen (DO) flux and the five-day biochemical oxygen demand (BOD₅) test) for purposes of identifying nutrient impairment not accepted by the scientific community or the U.S. EPA for use for such purposes. As a result, the current MPCA riverine standards rule is significantly flawed, and we desire at this time to present such information to the MPCA in the form of a petition for rule amendments so that the MPCA can take the appropriate steps necessary to correct the rule.

Background and Legal Basis for Petition for Rulemaking

Under section 303(c) of the Clean Water Act, state standards are required to be based on a “sound scientific rationale” and “sound scientific information” (40 C.F.R. 131.11(a) and (b)), and “appropriate technical and scientific data and analyses” (40 C.F.R. 131.5(a)(4)).

However, new evidence, which has come to light following the adoption of the riverine standards, clearly demonstrates that the current rules, in part, do not meet the above requirements. In Freedom of Information Act (FOIA) requests to the U.S. Environmental Protection Agency (EPA), EPA responded stating that it had no documents or records in its possession demonstrating either;

1. that dissolved oxygen (DO) flux, *per se*, should be considered indicative of use impairment in a river or stream, or
2. that using the five-day biochemical oxygen demand (BOD₅) test as a nutrient response criterion was scientifically defensible,

both of which are factors used for such purposes in the MPCA's currently adopted riverine standards.

Use of such scientifically unsupported criteria in the current riverine standards demonstrates that the adopted rule, in the portions of the rules using such criteria, is unreasonable and arbitrary since no information or evidence exists showing that (1) the BOD₅ test is a valid nutrient impairment indicator, or (2) that DO flux causes aquatic life impairments.

This argument is also significantly bolstered by the publication of a memorandum from Andrew Eaton, of the Joint Editorial Board of the *Standard Methods for the Examination of Water and Wastewater*, who is the creator of the BOD₅ test, dated November 19, 2014 (the Standard Methods memorandum), which directly confirmed that this test, currently relied upon by the MPCA in its adopted rules, is not "an appropriate measure of nutrient pollution nor is it a valid predictor of nutrient impacts."

The existence of the EPA's FOIA responses and the *Standard Methods* memorandum, are new evidence going to the reasonableness of the adopted rules containing riverine standards and unequivocally demonstrate that key aspects of the MPCA's current riverine standards rule were not scientifically defensible. Thus, these portions of the rules containing the riverine standards are scientifically flawed and unreasonable, and amendment of these portions of the rules to correct the same through this rulemaking petition is necessary and appropriate at this time.

Rulemaking Petition Process to Amend MPCA's Riverine Standards

- **Governing Law**

Minnesota Statutes, section 14.091 authorizes a city or sanitary district to petition for the amendment of a rule(s) or specific portion of a rule(s) (such as MPCA's riverine standards rules) if it can demonstrate that "one of the following has become available since the adoption of the rule in question:

- (1) significant new evidence relating to the need for or reasonableness of the rule; or
- (2) less costly or intrusive methods of achieving the purpose of the rule."

In this case, as mentioned above, significant new evidence exists relating to the reasonableness of the riverine standards rule in the form of the EPA FOIA responses and the Standard Methods memorandum providing compelling post-rulemaking evidence that the BOD₅ test is not a valid nutrient impairment indicator and that DO flux does not cause aquatic life impairments.

This rulemaking petition presents what is a very straightforward and easy to understand issue. It is our hope that the MPCA will see the reasonableness of the request and proceed to voluntarily correct the current rules. However, MPCA to date, has resisted prior attempts to correct the rules, and we believe there are no other options short of filing this rulemaking petition to seek resolution. We believe that if this clearly scientifically flawed rule goes uncorrected, it could result in millions of dollars of unjustified and needless expenditures of taxpayer and ratepayer dollars. In short, there is clear evidence that the current riverine standards rule is significantly

flawed and unreasonable. The present rulemaking petition is intended to correct the portion of the rules that are so flawed and unreasonable and leave rules in place that are scientifically sound and justified.

- **Rulemaking Petition Process**

Upon receiving a rulemaking petition from one or more cities or sanitary districts, the MPCA is required to either (1) agree to the requested amendment of the riverine standards rule as contained in the petition, or (2) turn the petition over to the Office of Administrative Hearings (OAH) for review. Minn. Stat. § 14.091, subd. (c). OAH would then be tasked with determining if the petition satisfied the requirements outlined above, and if so, would hold a rulemaking hearing and issue an order on the continued need for and reasonableness of the riverine standards rule. *Id.*, subd. (d). If OAH were to conclude that the riverine standards were no longer reasonable, the rules would become unenforceable 90 days thereafter, pending further action by the MPCA to amend the rules impacted by OAH's order. *Id.*, subd. (e).

If OAH were to find that the riverine standards rule continues to be needed and reasonable, the petitioning cities and/or sanitary districts would likely be able to appeal OAH's decision to the Minnesota Court of Appeals as a matter of right under a writ of certiorari. Minn. Stat. § 606.06; *see also Meath v. Harmful Substance Compensation Bd.*, 550 N.W.2d 275 (Minn. 1996) (quasi-judicial decisions of administrative agencies, "marked by an investigation into a disputed claim and a decision binding on the parties," are appealable under a writ of certiorari).

A successful petition under Minn. Stat. § 14.091, whether through the OAH rulemaking hearing or subsequent appeal, would result in the challenged riverine standards rules being unenforceable, and would again likely result in the MPCA seeking to amend its standards consistent with the positions contained in the rulemaking petition.

Please do not hesitate to contact us at 651-225-8840, tpflaherty@flaherty-hood.com, or dmmarx@flaherty-hood.com to discuss further.

CMH/RTS

14.091 PETITION; UNIT OF LOCAL GOVERNMENT.

(a) The elected governing body of a statutory or home rule city, a county, or a sanitary district may petition for amendment or repeal of a rule or a specified portion of a rule. The petition must be adopted by resolution of the elected governing body and must be submitted in writing to the agency and to the Office of Administrative Hearings, must specify what amendment or repeal is requested, and must demonstrate that one of the following has become available since the adoption of the rule in question:

- (1) significant new evidence relating to the need for or reasonableness of the rule; or
- (2) less costly or intrusive methods of achieving the purpose of the rule.

(b) Within 30 days of receiving a petition, an agency shall reply to the petitioner in writing stating either that the agency, within 90 days of the date of the reply, will give notice under section 14.389 of intent to adopt the amendment or repeal requested by the petitioner or that the agency does not intend to amend or repeal the rule and has requested the Office of Administrative Hearings to review the petition. If the agency intends to amend or repeal the rule in the manner requested by the petitioner, the agency must use the process under section 14.389 to amend or repeal the rule. Section 14.389, subdivision 5, applies.

(c) Upon receipt of an agency request under paragraph (b), the chief administrative law judge shall assign an administrative law judge, who was not involved when the rule or portion of a rule that is the subject of the petition was adopted or amended, to review the petition to determine whether the petitioner has complied with the requirements of paragraph (a). The petitioner, the agency, or any interested person, at the option of any of them, may submit written material for the assigned administrative law judge's consideration within ten days of the chief administrative law judge's receipt of the agency request. The administrative law judge shall dismiss the petition if the judge determines that:

- (1) the petitioner has not complied with the requirements of paragraph (a);
- (2) the rule is required to comply with a court order; or
- (3) the rule is required by federal law or is required to maintain authority to administer a federal program.

(d) If the administrative law judge assigned by the chief administrative law judge determines that the petitioner has complied with the requirements of paragraph (a), the administrative law judge shall conduct a hearing and issue a decision on the petition within 120 days of its receipt by the Office of Administrative Hearings. The agency shall give notice of the hearing in the same manner required for notice of a proposed rule hearing under section 14.14, subdivision 1a. At the public hearing, the agency shall make an affirmative presentation of facts establishing the need for and reasonableness of the rule or portion of the rule in question. If the administrative law judge determines that the agency has not established the continued need for and reasonableness of the rule or portion of the rule, the rule or portion of the rule does not have the force of law, effective 90 days after the administrative law judge's decision, unless the agency has before then published notice in the State Register of intent to amend or repeal the rule in accordance with paragraph (e).

(e) The agency may amend or repeal the rule in the manner requested by the petitioner, or in another manner that the administrative law judge has determined is needed and reasonable. Amendments under this paragraph may be adopted under the expedited process in section 14.389. Section 14.389, subdivision 5, applies to this adoption. If the agency uses the expedited process and no public hearing is required, the agency must complete the amendment or repeal of the rule within 90 days of the administrative law judge's decision under paragraph (d). If a public hearing is required, the agency must complete the amendment or repeal of the rule within 180 days of the administrative law judge's decision under paragraph (d). A rule

or portion of a rule that is not amended or repealed in the time prescribed by this paragraph does not have the force of law upon expiration of the deadline. A rule that is amended within the time prescribed in this paragraph has the force of law, as amended.

(f) The chief administrative law judge shall report the decision under paragraph (d) within 30 days to the chairs of the house of representatives and senate committees having jurisdiction over governmental operations and the chairs of the house of representatives and senate committees having jurisdiction over the agency whose rule or portion of a rule was the subject of the petition.

(g) The chief administrative law judge shall assess a petitioner half the cost of processing a petition and conducting a public hearing under paragraph (d).

History: 1999 c 193 s 1; 2000 c 335 s 1; 1Sp2003 c 1 art 2 s 29

**PETITION FOR RULE AMENDMENT TO THE
MINNESOTA POLLUTION CONTROL AGENCY**

Pursuant to Minnesota Statutes § 14.091

Petitioners: [City of _____]

 [City of _____]

 [City of _____]

 [City of _____]

 [_____ Sanitary District]

 [_____ Sanitary District]

 [_____ Sanitary District]

Addresses: **Please see list on Appendix A.**

Petitioners request that the agency named above:

- _____ Adopt a new rule governing _____
- Amend Minnesota Rules, part(s) Minn. R. 7050.0150, .0220, and .0222
- _____ Repeal Minnesota Rules, part(s) _____

1. Introduction

The elected governing body of a city, county or sanitary district has a statutory right to petition for amendment or repeal of a rule or a specified portion of a rule by submitting a written petition to the agency and to the Office of Administrative Hearings (OAH) when “significant new evidence relating to the need for or reasonableness of the rule” has become available since the adoption of the rule in question. Minn. Stat. § 14.091, subd. (a).

The Minnesota Pollution Control Agency (herein “MPCA” or the “Agency”) adopted certain new and revised water quality standards and criteria for rivers and streams under Minn.

R. 7050.0150, .0220, and .0222 (herein the “riverine standards”) on June 24, 2014.¹ The riverine standards rely in part on scientifically unsupported applications of (1) a test used to determine biochemical oxygen demand (BOD) in water bodies over a five day period (BOD5), and (2) a measurement of dissolved oxygen variation (DO flux) in water bodies, to determine whether a measured body is impaired because of nutrient growth, and thus whether a violation of the riverine standards has occurred.

Significant new evidence has come to light since the MPCA formally adopted the riverine standards on June 24, 2014 which demonstrates that neither BOD5 nor DO flux are reliable indicators of nutrient impairment. First, a memorandum published on November 19, 2014 by the *Standard Methods* board of editors, the very experts responsible for the development and use of the BOD5 test incorporated by MPCA into the riverine standards, expressly confirmed that it is improper to use BOD5 as an impairment response criterion for nutrients (as MPCA has done in the riverine standards).

Second, the United States Environmental Protection Agency (EPA) confirmed in its responses to several Freedom of Information Act (FOIA) requests between September 12, 2014 and December 5, 2014, that, among other things, it did not have any records concerning the use of BOD5 as a nutrient response criterion or which supported using DO flux as a response variable for identification of nutrient impairment (in contradiction of MPCA’s statements during rulemaking that EPA scientists reviewed and supported MPCA’s use of BOD5 and DO flux as nutrient impairment indicators). Relatedly, MPCA has now admitted in court filings that it possesses no information indicating that it ever requested any of the peer reviewers tasked with reviewing its riverine standards to specifically address the BOD5 and DO flux issues (again in contradiction of MPCA’s statements during rulemaking).

This significant new evidence undermines the scientific rationale for and reasonableness of the riverine standards’ use of BOD5 and DO flux as indicators of nutrient impairments, and Petitioners accordingly now petition under Minn. Stat. § 14.091 for the amendment of the riverine standards to remove the BOD5 and DO flux response variables, as shown *supra* in Section 4.

2. Background: Regulatory Framework

The Clean Water Act Section 303(c) requires states to adopt water quality standards to protect aquatic life and public health and, as explained in EPA’s implementing rules, such criteria are set at the level “necessary to protect the adopted uses.” 33 U.S.C. §1313(c); 40

¹ The rule amendments also affected Minn. R. 7050.0205, .0467 (which was repealed), and .0468, but such sections are not at issue in this petition.

C.F.R. 131.2.² In Minnesota, the MPCA is entrusted with the authority “to establish and alter such *reasonable* pollution standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary for the purposes of this chapter” Minn. Stat. § 115.03, subd. 1(c) (emphasis added). Federal law also requires that the adopted numeric criteria be based on “sound scientific information”. 40 CFR 131.5(a)(2).

Water quality standards (WQS), including the riverine standards, are a performance-based regulatory system in which the WQS identify, using the best-available science, the conditions that must exist in Minnesota’s water bodies to fully support each waters' designated uses. Attaining the designated use is the objective of the WQS. Under Minn. Stat. § 14.14, subd. 2, and Minn. R. 1400.2100, “the agency must establish the need for and reasonableness of a proposed rule by an affirmative presentation of facts.”

All WQS must be based on causation; *i.e.*, exceedance of a given threshold of a given pollutant is deemed to impair one or more designated uses for a given body of water.³ This assessment requires two basic demonstrations: (1) identification of an impairment threshold; and (2) a demonstration of how the pollutant is causing the adverse effect on aquatic life and/or recreational uses (often with laboratory studies). *See* Minn. R. 7050.0150, subp. 1; *and* Minn. R. 1400.2070, subp. 1.

3. Detailed Explanation of Need for Rule Amendment

The stated purpose of the riverine standards is to prevent excessive plant growth in rivers and streams due to elevated nutrient levels. Minn. R. 7050.0222, subps. 2b(D), 3b(D), 4b(D). Where such plant growth is natural, not controlled by nutrient levels or not excessive, nutrient

² The CWA calls “standards” the combination of designated beneficial uses, and the criteria necessary to achieve those uses. Minnesota law tends to refer to the latter as simply “standards,” and so for purposes of this petition the term “standards” shall encompass what are called “criteria” in the federal Clean Water Act. *See discussion at* R. 00113-15 (SONAR Book I); *see also* 40 C.F.R. 131.3(i), 40 C.F.R. 131.11(a).

³ *See* Minn. R. 7050.0150, subp. 1: “The intent of the state is to protect and maintain surface waters in a condition which allows for the maintenance of all existing beneficial uses. The condition of a surface water body is determined by its physical, chemical, and biological qualities. The agency shall determine an exceedance of water quality standards or an impaired condition **based on pollution of the waters of the state from point and nonpoint sources that has resulted in degradation of the physical, chemical, or biological qualities of the water body to the extent that attainable or previously existing beneficial uses are actually or potentially lost.**” (emphasis supplied)

levels do not require regulation. *See* Minn. R. 7050.0150, subps. 5 and 5a; *see also* Minn. R. 7050.0170.

A river or stream segment is considered impaired for nutrients under the riverine standards if (1) the total phosphorous (TP) value is exceeded, and (2) any one or more of four identified “response variables” (i.e. sestonic chlorophyll a, DO flux, BOD5), which the riverine standards use to gauge when the aquatic environment is directly responding to phosphorus inputs, is also exceeded. *See* Minn. R. 7050.0150, subp. 5b.

The riverine standards prescribe numeric values for each of these response variables, according to any one of three “river nutrient regions” (herein “RNRs”), with separate values prescribed for some mainstem navigable pools. Minn. R. 7050.0222, subps. 2, 2b, 3, 3b, 4, and 4b. The regulatory effect of declaring a waterbody nutrient impaired is significant. First, a Total Maximum Daily Load (“TMDL”) must usually be prepared for all waterbodies that are nutrient impaired as a means to determine and allocate the total amount of nutrients a waterbody can retain without violating the water quality standard. *See* 33 U.S.C. § 1313(d); 40 C.F.R. § 130.2(h)-(i); 40 C.F.R. § 130.7(c). Second, dischargers to impaired waterbodies - whether a TMDL has been issued or not - customarily receive more stringent water quality-based effluent limitations under 40 C.F.R. § 122.44(d). As a means to comply with nutrient TMDLs and/or the more stringent permit limitations, permittees on waterbodies designated as nutrient impaired will have to expend resources to reduce nutrient discharges, creating additional solid waste for disposal, consuming electricity and chemical usage. Such technology comes at cost to the municipal permittees, which can only be funded through municipal bonds and tax hikes to the constituents.

The MPCA’s use of BOD5 and DO flux as nutrient impairment criteria in the riverine standards was scientifically problematic, and the source of challenges by the regulated community, in particular by the Minnesota Science and Economic Review Board (MESERB), during the MPCA’s public rulemaking process and in a declaratory judgment action following the MPCA’s formal adoption of the riverine standards. *See MESERB et al. v. Minnesota Pollution Control Agency*, 870 N.W.2d 97 (Minn. Ct. App. 2015). The Court of Appeals declared the riverine standards to be valid, but, at MPCA’s request, expressly did not consider the new evidence upon which this petition is based. *See* Ex. 1, Court of Appeals’ Order denying motion to supplement administrative record.

a. BOD5 Test Issues

The BOD5 test is designed to measure oxygen demand from organic substances. Minn. R. 7050.0150, subp. 4. Nutrients are added to a water sample and the test is run for five days “in the dark” which, in the presence of live algae, causes an oxygen demand that does not exist in the

real world. As noted by Dr. Steven Chapra, one of the foremost authorities on nutrient impairment evaluation, the BOD5 test measures the effects of numerous non-nutrient parameters (organic substances, nitrogenous material) and is artificially inflated by effects from live algae placed in the dark for five days. Therefore, utilizing this test with ambient samples containing live algae would very likely produce a BOD reading that does not actually exist and is simply an artifact of the test method. *See Ex. 2, Chapra Analysis of BOD5* (“It is my assessment that the creation of a BOD₅ criteria as a nutrient impairment indicator is fundamentally flawed and not consistent with accepted scientific practices for assessing nutrient impacts in streams or any other natural waters.”)

Consequently, no federal nutrient criteria development guidance document has ever recommended regulating BOD as a nutrient impairment indicator. The inclusion of the BOD5 test as a nutrient impairment response variable in the riverine standards will inevitably lead to the classifications of rivers and streams as impaired even when there is, in fact, no impairment related to nutrients.

b. DO flux issues

Regarding the DO flux variable, MESERB noted that DO flux, by itself, is not an appropriate response variable for prevention or identification of nutrient impairment either. *See Ex. 3, MESERB comments on DO flux.* Use of DO flux as a nutrient response variable to identify aquatic life impairment, as opposed to minimum DO, has not been accepted by the scientific community and has not been endorsed in any EPA guidance documents dealing with the development of nutrient criteria. As with the BOD test, this response criteria is affected by other, non-nutrient, natural factors (*e.g.*, temperature, natural plant growth, stream depth, existence of wetlands, and velocity) and one cannot assess the ecological significance of the measured DO flux without conducting further detailed assessments. MPCA’s use of this metric as an indicator of nutrient-induced use impairment was also unprecedented. Expert testimony from Thomas Gallagher, unrefuted by MPCA, confirmed that the DO flux level selected by MPCA is exceeded naturally in many waters. MPCA acknowledged that it had not evaluated the range of naturally occurring DO flux found in waters with healthy fisheries. *See Ex. 4, Thomas Gallagher analysis and MPCA acknowledgement it did not evaluate the range of naturally occurring DO flux found in waters with healthy fisheries.*

c. MPCA’s rulemaking defense of BOD5 and DO flux criteria

During rulemaking on the riverine standards, the MPCA refused to alter its approach and modify the rule to account for the shortcomings in using BOD5 and DO flux as nutrient response

variables, and addressed the regulated community's objections to using these criteria not with specific scientific evidence supporting its position, but with general claims that these objections had been fully addressed by peer reviewers and the EPA, as exemplified by the following testimony:

... **EPA had multiple reviewers of all of the materials** submitted in the Statement of Need and Reasonableness, the technical support documents and the rule revisions. **Each of those reviewers, I assume, reviewed the scientific analysis and, in whole, the conclusion was that EPA supported the scientific analysis.** See Ex. 5, MPCA statements referencing EPA review and approval of nutrient response variables. (emphasis supplied)

I want to stress that **we did not reach this point alone... We've been working very closely with EPA Region 5 scientists, nutrient experts, since the mid '90s, early on, in the development of the technical support documents. We shared a draft with EPA Region 5 and EPA region -- or the headquarters of EPA, who then contracted with three independent scientific peer reviewers.** Their comments and the discussion that ensued led to additional analysis, improvements, modifications, and, really, a stronger scientific package. *Id.* (emphasis supplied).

Following a public hearing on the rule amendments before an Administrative Law Judge (ALJ) on January 8, 2014, the ALJ issued his report on May 2, 2014, in which he recommended that the rule amendments be adopted. See Report of the Administrative Law Judge, In re the Proposed Rules of the Pollution Control Agency for Rule Amendments Governing Water Quality Standards - River Eutrophication, Total Suspended Solids and Minor Corrections and Clarifications to Minnesota Rules 7050 and 7053.⁴ The ALJ cited EPA's "preliminary evaluation" that the riverine standards "appear to be scientifically defensible" in his findings supporting his recommendation (although EPA did not specifically reference MPCA's use of BOD5 and DO flux). *Id.*, ¶¶ 101—102. MPCA thereafter formally adopted the riverine standards on June 24, 2014 and published notice of adoption of the Standards in the *Minnesota State Register* on August 4, 2014. See Ex. 6, Published notice of adoption of riverine standards.

⁴ Available online at:

<http://mn.gov/oah/images/2200-30791%20Eutrophician%20Rule%20Report.pdf>

d. New evidence necessitating rule amendment

Following the MPCA's adoption of the riverine standards, counsel for MESERB submitted a FOIA request to EPA regarding the use of the BOD5 test as a valid nutrient impairment indicator. *See Ex. 7, BOD5 FOIA Request/Response.* In its response to the FOIA request, EPA conceded that it possesses no documentation supporting the use of the BOD5 test as a proper nutrient response criterion, thus negating MPCA's claims during rulemaking that EPA had reviewed and agreed with its use of the BOD5 test in the riverine standards. *Id.*

Further, *The Standard Methods*, the expert that EPA relies upon for proper test development and usage (*see* 40 C.F.R. § 136.3) and the entity that developed the BOD5 test in the first place, published a memorandum on November 19, 2014 for the purpose of clarifying that BOD5 should *not* be used as a parameter to evaluate the presence of a nutrient impairment. *See Ex. 8, Standard Methods Memo on BOD5 test.* In this publication the *Standard Methods* board of directors specifically instructed that “[t]he BOD test (Standard Method S21 0 B) *is not considered to provide an appropriate measure of nutrient pollution nor is it a valid predictor of nutrient impacts.*” (emphasis supplied.)⁵

This new evidence confirms that the BOD5 test is simply being misapplied in the riverine standards as it plainly was not designed to be, and is incapable of reliably predicting nutrient impairment in the environment. Therefore, use of this test to identify nutrient impaired waters is clearly not scientifically defensible, in violation of 40 CFR 131.5 *Humana of Aurora v. Heckler*, 753 F.2d 1579, 1583 (10th Cir. 1985) (“When an agency [decision is] based on a study [that is] not designed for the purpose and which is limited and criticized by its authors on points essential to the use sought to be made of it, the administrative action is arbitrary and capricious and a clear error in judgment.”).

Moreover, courts in Minnesota prevent the admission into evidence of the results of a scientific test that was not correctly applied or not intended to demonstrate a scientific/factual issue. *See Goeb v. Tharaldson*, 615 N.W.2d 800, 810 (Minn. 2000) (in order for scientific evidence to be admissible “[t]he scientific technique must be generally accepted within the relevant scientific community, and the particular evidence introduced must have a scientifically reliable foundation”) (citing *Frye v. United States*, 293 F. 1013 (D.C.Cir.1923), and *State v. Mack*, 292 N.W.2d 764, 768-69, 772 (Minn.1980)). *A fortiori*, the riverine standards must not be allowed to misapply the BOD5 test to predict nutrient impairments (and thus violations of the

⁵ Eaton, A. November 19, 2014. *Memorandum: RE: BOD as an Indicator of Nutrient Pollution.* Standard Methods for the Examination of Water and Wastewater Joint Editorial Board. Available at https://www.standardmethods.org/PDF/BOD_Nutrient_Pollution_Memo 2014.pdf

riverine standards) when such test was not designed to and is not capable of accurately predicting nutrient impairment. *Id.*

With specific regard to DO flux, a separate EPA FOIA response affirmed that the Agency has no documentation supporting use of DO flux as an aquatic life impairment parameter. *See* Ex. 9, DO flux FOIA Request/Response with follow-up correspondence. In this FOIA response, EPA confirmed that it “currently has no official records dealing with DO variation as a water quality impairment in and of itself (that *is*, when DO levels never drop below the daily minimum OR the 7-day mean minimum).” This new evidence from the EPA again contradicts MPCA’s representations during the rulemaking that EPA had reviewed and agreed with MPCA’s use of DO flux as an impairment criterion, and undermines the continued reasonableness of maintaining the DO flux variable in the riverine standards.

Finally, MPCA admitted in a filing to the Minnesota Court of Appeals in the *MESERB* case (870 N.W.2d 97) that it possesses no information indicating that it ever requested any of the expert peer reviewers tasked with reviewing its riverine standards to specifically address the BOD5 and DO flux issues. *See* Ex. 10, Excerpts from MESERB Motion to Supplement the Administrative Record, December 5, 2014, and MPCA Response to Petition to Supplement the Record, Minnesota Court of Appeals Case No. A14-1694, December 11, 2014 (“First, simply put, MPCA has no direct or indirect knowledge that such information (i.e. various records relating to the scope, content, and issues addressed by each of the six expert peer reviews) exists and does not possess, nor has ever possessed such additional information.”)

MPCA’s admission, post rulemaking, that it possesses no information indicating that the objections to using BOD5 or DO flux as nutrient response variables, which were repeatedly raised since 2010 by MESERB and its experts, were *ever* presented to *any* peer reviewer, undermines its assurances during rulemaking that these expert peer reviewers (from the EPA and otherwise) confirmed these objections to be unsupported. *See infra*, p. 6. In so doing MPCA “swept [an] issue under the rug” and “avoided stubborn questions” in the rulemaking. *See White v. Minnesota Dep’t of Natural Resources*, 567 N.W.2d 724, 735 (Minn. App. 1997).

In considering (and rejecting) MESERB’s and other regulated parties’ challenge to the riverine standards, the Minnesota Court of Appeals, at MPCA’s request, specifically refused to consider the *Standard Methods* memorandum rejecting the use of the BOD5 test as a nutrient impairment indicator and EPA’s FOIA responses confirming that it possesses no records supporting MPCA’s use of BOD5 and/or DO flux as nutrient response criteria. *See* Ex. 1, Minnesota Court of Appeals’ Order denying motion to supplement administrative record.

The maintenance of the BOD5 and DO flux nutrient response variables in the riverine standards will result in MPCA classifying Minnesota rivers and streams as nutrient impaired even though there is, in fact, no impairment related to nutrients.⁶ The new evidence now

⁶ Conversely, it also possible that the numeric criteria selected for DO flux and BOD5 will not be

available from *The Standard Methods* and the EPA confirms that the riverine standards, as currently constructed with the BOD5 and DO flux endpoints included, are likely to improperly indicate nutrient impairment even where plant growth is not causing an impairment of beneficial water uses. *See* Minn. R. 7050.0150, subp. 5b (high nutrients with *any* elevated response variables constitutes a violation of the riverine standards). An agency regulation that lacks documented, reasonable scientific support is unreasonable. Minn. R. 1400.2070, subp. 1; *see Manufactured Housing Inst. v. Pettersen*, 347 N.W.2d 238 (Minn. 1984), *Minn. Chamber of Commerce v. Minn. Pollution Control Agency*, 469 N.W.2d 100 (Minn. Ct. App. 1991); 40 C.F.R. 131.11(a) (criteria must have sound scientific rationale).

Especially in light of the significant fiscal impacts to the regulated community and the public of classifying a waterbody as nutrient impaired and the adverse ecological effects of increasing chemical and energy usage, criteria and response variables that are not based on a sound scientific rationale and will result in misclassifications of nutrient impairments simply must be corrected.⁷

4. Proposed Rule Amendment

In light of the new evidence described in Section 3 *infra* (the *Standard Methods* memorandum rejecting the use of the BOD5 test as a nutrient impairment indicator, EPA’s FOIA responses confirming that it possesses no records supporting MPCA’s use of BOD5 and/or DO flux as nutrient response criteria, and MPCA’s admission that it possesses no information indicating that it ever requested any of its peer reviewers to specifically address the BOD5 and DO flux issues), Petitioners hereby petition for the following amendments to Minn. R. 7050.0150, .0220, and .0222 as follows:

Minn. R. 7050.0150

exceeded in situations where there is a real nutrient impairment.

⁷ Further, the riverine standards’ misuse of the BOD5 test DO flux measurement is inconsistent the MPCA’s statutory authority, which requires WQS to be structured in such a way as to demonstrate how the pollutant of concern is causing the adverse effect sought to be avoided: in other words, causation and not merely correlation. *See* Minn. Stat. § 115.03, subd. 1 (the MPCA’s authority is to “establish ... such reasonable pollution standards for any waters of the state in relation to the public use to which they are or may be put as it shall deem necessary...”). *See also* Minn. R. 7050.0150, subp. 1 (the MPCA “shall determine an exceedance of water quality standards or an impaired condition based on pollution of the waters of the state from point and nonpoint sources that has resulted in the degradation of ... the water body *to the extent that attainable or previously existing beneficial uses are actually or potentially lost.*”) (emphasis supplied).

Subp. 4. Definitions.

~~C. "BOD5" or "five-day biochemical oxygen demand" means the amount of dissolved oxygen needed by aerobic biological organisms to break down organic material present in a given water sample at a certain temperature over a five-day period.~~

~~E. "Diel flux" means the daily change in a constituent, such as dissolved oxygen or pH, when there is a distinct daily cycle in the measurement. Diel dissolved oxygen flux means the difference between the maximum daily dissolved oxygen concentration and the minimum daily dissolved oxygen concentration.~~

Subp. 5. Impairment of waters due to excess algae or plant growth.

~~D. representative summer average concentrations of five-day biochemical oxygen demand measured in rivers and streams;~~

~~E. representative diel dissolved oxygen flux measurements in rivers and streams as averaged over a minimum of four consecutive days during the summer season;~~

Subp. 5b. Impaired condition; rivers and streams.

A. elevated levels of nutrients under subpart 5, item A, and at least one factor showing impaired conditions resulting from nutrient overenrichment under subpart 5, item B, ~~D, E,~~ F, or H; or

Minn. R. 7050.0220

Subp. 3a. Cold water sport fish, drinking water, and associated use classes.

A. (12) Eutrophication standards for rivers, streams, and navigational pools (phosphorus, total $\mu\text{g/L}$; chlorophyll-a (seston), $\mu\text{g/L}$; ~~five-day biochemical oxygen demand (BOD5), mg/L ; diel dissolved oxygen flux, mg/L~~ ; chlorophyll-a (periphyton), mg/m^2)

Subp. 4a. Cool and warm water sport fish, drinking water, and associated use classes.

A. (12) Eutrophication standards for rivers, streams, and navigational pools (phosphorus, total $\mu\text{g/L}$; chlorophyll-a (seston), $\mu\text{g/L}$; ~~five-day biochemical oxygen demand (BOD5), mg/L ; diel dissolved oxygen flux, mg/L~~ ; chlorophyll-a (periphyton), mg/m^2)

Subp. 5a. Cool and warm water sport fish and associated use classes.

A. (8) Eutrophication standards for rivers, streams, and navigational pools (phosphorus, total $\mu\text{g/L}$; chlorophyll-a (seston), $\mu\text{g/L}$; ~~five-day biochemical oxygen demand (BOD5), mg/L ; diel dissolved oxygen flux, mg/L~~ ; chlorophyll-a (periphyton), mg/m^2)

Minn. R. 7050.0222

Subp. 2. Class 2A waters; aquatic life and recreation.

Eutrophication standards for Class 2A rivers and streams.

North River Nutrient Region:

Phosphorus, total $\mu\text{g/L}$ less than or equal to 50

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 7

~~Diel dissolved oxygen flux mg/L less than or equal to 3.0~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 1.5~~

Central River Nutrient Region:

Phosphorus, total $\mu\text{g/L}$ less than or equal to 100

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 18

~~Diel dissolved oxygen flux mg/L less than or equal to 3.5~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 2.0~~

South River Nutrient Region:

Phosphorus, total $\mu\text{g/L}$ less than or equal to 150

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 35

~~Diel dissolved oxygen flux mg/L less than or equal to 4.5~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 3.0~~

Subp. 2b. Narrative eutrophication standards for rivers and streams.

A. Eutrophication standards for rivers and streams are compared to summer-average data or as specified in subpart 2. Exceedance of the total phosphorus levels and chlorophyll-a (seston), ~~five day biochemical oxygen demand (BOD5), diel dissolved oxygen flux,~~ or pH levels is required to indicate a polluted condition.

B. Rivers and streams that exceed the phosphorus levels but do not exceed the chlorophyll-a (seston), ~~five day biochemical oxygen demand (BOD5), diel dissolved~~

~~oxygen flux~~, or pH levels meet the eutrophication standard.

Subp. 3. Class 2Bd waters.

North River Nutrient Region

Phosphorus, total $\mu\text{g/L}$ less than or equal to 50

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 7

~~Diel dissolved oxygen flux mg/L less than or equal to 3.0~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 1.5~~

Central River Nutrient Region

Phosphorus, total $\mu\text{g/L}$ less than or equal to 100

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 18

~~Diel dissolved oxygen flux mg/L less than or equal to 3.5~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 2.0~~

South River Nutrient Region

Phosphorus, total $\mu\text{g/L}$ less than or equal to 150

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 35

~~Diel dissolved oxygen flux mg/L less than or equal to 4.5~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 3.0~~

Subp. 3b. Narrative eutrophication standards for rivers, streams, and navigational pools.

A. Eutrophication standards for rivers, streams, and navigational pools are compared to summer-average data or as specified in subpart 3. Exceedance of the total phosphorus levels and chlorophyll-a (seston), ~~five-day biochemical oxygen demand (BOD5)~~, ~~diel dissolved oxygen flux~~, or pH levels is required to indicate a polluted

condition.

B. Rivers, streams, and navigational pools that exceed the phosphorus levels but do not exceed the chlorophyll-a (seston), ~~five-day biochemical oxygen demand (BOD5), diel dissolved oxygen flux,~~ or pH levels meet the eutrophication standard.

Subp. 4. Class 2B waters.

Eutrophication standards for Class 2B rivers and streams.

North River Nutrient Region

Phosphorus, total $\mu\text{g/L}$ less than or equal to 50

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 7

~~Diel dissolved oxygen flux mg/L less than or equal to 3.0~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 1.5~~

Central River Nutrient Region

Phosphorus, total $\mu\text{g/L}$ less than or equal to 100

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 18

~~Diel dissolved oxygen flux mg/L less than or equal to 3.5~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 2.0~~

South River Nutrient Region

Phosphorus, total $\mu\text{g/L}$ less than or equal to 150

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 40

~~Diel dissolved oxygen flux mg/L less than or equal to 5.0~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 3.5~~

Crow Wing River from confluence of Long Prairie River to the mouth of the Crow Wing River at the Mississippi River

Phosphorus, total $\mu\text{g/L}$ less than or equal to 75

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 13

~~Diel dissolved oxygen flux mg/L less than or equal to 3.5~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 1.7~~

Crow River from the confluence of the North Fork of the Crow River and South Fork of the Crow River to the mouth of the Crow River at the Mississippi River

Phosphorus, total $\mu\text{g/L}$ less than or equal to 125

Chlorophyll-a (seston) $\mu\text{g/L}$ less than or equal to 27

~~Diel dissolved oxygen flux mg/L less than or equal to 4.0~~

~~Biochemical oxygen demand (BOD5) mg/L less than or equal to 2.5~~

Subp. 4b. Narrative eutrophication standards for Class 2B rivers and streams.

A. Eutrophication standards for rivers and streams are compared to summer-average data or as specified in subpart 4. Exceedance of the total phosphorus levels and chlorophyll-a (seston), ~~five-day biochemical oxygen demand (BOD5), diel dissolved oxygen flux,~~ or pH levels is required to indicate a polluted condition.

B. Rivers and streams that exceed the phosphorus levels but do not exceed the chlorophyll-a (seston), ~~five-day biochemical oxygen demand (BOD5), diel dissolved oxygen flux,~~ or pH levels meet the eutrophication standard.

5. Conclusion

MPCA is required to reply to this petition in writing within 30 days stating whether or not it intends to adopt the rule amendments petitioned for herein, and if it does not intend to amend the rule it must request OAH to review the petition. Minn. Stat. § 14.091, subd. (b). For the

reasons set forth and discussed above, Petitioners respectfully request that the MPCA give notice under section 14.389 of its intent to adopt the amendments to Minn. R. 7050.0150, .0220, and .0222 petitioned for herein, as specifically set forth *infra* in Section 4.

DATED: _____

FLAHERTY & HOOD, P.A.

Robert T. Scott (#0330759)
Daniel M. Marx (# _____)
525 Park Street, Suite 470
St. Paul, MN 55103
Tel: (651) 225-8840
Fax: (651) 225-9088

ATTORNEYS FOR PETITIONERS

Appendix A – Petitioners’ Addresses

CITY OF _____, MINNESOTA
CITY COUNCIL RESOLUTION _____

A RESOLUTION BY THE MAYOR AND CITY COUNCIL OF THE CITY OF _____,
MINNESOTA AUTHORIZING FLAHERTY & HOOD, P.A. TO FILE A PETITION ON ITS
BEHALF FOR AMENDMENT TO MINNESOTA RULES 7050.0150, .0220, AND .0222 TO
THE MINNESOTA POLLUTION CONTROL AGENCY AND THE MINNESOTA OFFICE
OF ADMINISTRATIVE HEARINGS PURSUANT TO MINNESOTA STATUTES, SECTION
14.091

WHEREAS, the Minnesota Pollution Control Agency (herein “MPCA” or the “Agency”) adopted certain new and revised water quality standards and criteria for rivers and streams under Minn. R. 7050.0150, .0220, and .0222 (herein the “riverine standards”) on June 24, 2014; and

WHEREAS, the riverine standards rely in part on scientifically unsupported applications of (1) a test used to determine biochemical oxygen demand (BOD) in water bodies over a five day period (BOD5), and (2) a measurement of dissolved oxygen variation (DO flux) in water bodies, to determine whether a measured body is impaired because of nutrient growth, and thus whether a violation of the riverine standards has occurred; and

WHEREAS, the City owns and operates a wastewater treatment facility that is regulated by the MPCA and subject to National Pollution Discharge Elimination System Permit No. _____, which expires on _____, the terms and conditions of which will likely be influenced by MPCA’s application of the riverine standards; and

WHEREAS, significant new evidence has come to light since the MPCA formally adopted the riverine standards on June 24, 2014 (as listed in Paragraph 2 below) which demonstrates that neither BOD5 nor DO flux are reliable indicators of nutrient impairment; and

WHEREAS, Minn. Stat. § 14.091, subd. (a) authorizes the elected governing body of a city, county or sanitary district to petition for amendment or repeal of a rule or a specified portion of a rule by submitting a written petition to the agency and to the Office of Administrative Hearings (OAH) when “significant new evidence relating to the need for or reasonableness of the rule” has become available since the adoption of the rule in question; and

WHEREAS, on the basis of the significant new evidence listed in Paragraph 2 below, the City wishes to petition the MPCA and OAH for amendment of the riverine standards to correct their unsupported applications of BOD5 and DO flux to determine whether a measured body is impaired because of nutrient growth, and thus whether a violation of the riverine standards has occurred.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL THAT:

1. Pursuant to Minn. Stat. § 14.091, the City Council hereby approves the filing of a petition on its behalf, in form and substance consistent with the attached Appendix A (the “Petition”), requesting amendments to Minn. R. 7050.0150, .0220, and .0222 on the basis of significant new evidence relating to the reasonableness of these rules discovered after the MPCA adopted amendments thereto to impose water quality standards and criteria for rivers and streams on June 24, 2014.
2. The significant new evidence upon which the Petition is based includes the following:
 - a. A Freedom of Information Act request from Hall & Associates to EPA for public records regarding the use of the BOD5 test as a valid nutrient impairment indicator dated November 6, 2014 and EPA’s response thereto dated December 5, 2014, in which EPA conceded that it possesses no documentation supporting the use of the BOD5 test as a proper nutrient response criterion. (Exhibit 7 to the Petition.)
 - b. A memorandum published on November 19, 2014 by Andrew Eaton, of the Joint Editorial Board of the *Standard Methods for the Examination of Water and Wastewater*, the expert that EPA relies upon for proper test development and usage (*see* 40 C.F.R. § 136.3) and the entity that developed the BOD5 test, clarifying that BOD5 should *not* be used as a parameter to evaluate the presence of a nutrient impairment. (Exhibit 8 to the Petition.)
 - c. A Freedom of Information Act request from Hall & Associates to EPA for public records indicating that DO flux, by itself, causes aquatic life impairment, dated July 31, 2014, EPA’s response thereto dated September 12, 2014, and follow up correspondence, in which EPA affirmed that it possesses no documentation supporting the use of DO flux as an aquatic life impairment parameter. (Exhibit 9 to the Petition.)
 - d. Excerpts from the Minnesota Environmental Science and Economic Review Board’s Motion to Supplement the Administrative Record, December 5, 2014, in Minnesota Court of Appeals Case No. A14-1694 (870 N.W.2d 97), and MPCA’s Response to Petition to Supplement the Record, December 11, 2014, in which MPCA admitted that it possesses no information indicating that it ever requested any of the expert peer reviewers tasked with reviewing its riverine standards to specifically address the BOD5 and DO flux issues. (Exhibit 10 to the Petition.)
3. The City retains and authorizes the law firm of Flaherty & Hood, P.A. to submit the Petition on the City’s behalf and thereafter to represent the City in all subsequent proceedings administered by the MPCA and/or OAH concerning the Petition.

PASSED by the City Council of the City of _____ on this ____ day of _____, 2016.

ATTEST

City Clerk

Mayor



Building a Better World
for All of Us®

January 30, 2016

RE: Proposal for Odor Monitoring & Technical
Support
City of Le Sueur
SEH No. 135140

Ms. Janelle Teppen
City Administrator
City of Le Sueur
201 South 2nd Street
Le Sueur, MN 56058

Dear Ms. Teppen:

Short Elliott Hendrickson, Inc. ("SEH") appreciates the opportunity to present you with this proposal for odor monitoring and technical support services to the City of Le Sueur ("City"). The City will benefit from SEH's support to achieve each of the following:

- Support the City with odor monitoring of known odor sources to quantitate significance
- Help the City respond/evaluate progress on odor complaints from residents and businesses

SEH understands our role supporting the City to provide independent, third-party, odor observations and technical support. The goal of gathering the data is to quantify the significance of odorous facilities leading to reduced odorous activities. SEH proposes to also provide technical engineering support to help the City achieve these goals. The City will benefit from SEH's broad knowledge of issues related to odor and technical knowledge on odor control systems for industrial facilities and wastewater treatment plants.

In response to discussions with the City during a Council meeting on November 30th, 2015, SEH proposes the specific services shown below.

SCOPE OF SERVICES

Task 1 – Conduct Odor Monitoring on Up to 8 City Locations

SEH understands that odor complaints from City residents related to several suspect locations have occurred. The City would like to determine if these facilities are potentially significant odor sources and quantify the comparative odor intensity from the facilities. SEH proposes to conduct odor monitoring with a Nasal Ranger olfactometer at up to five locations for eight times over the course of a week period in April 2016. Monitoring will only be performed if SEH personnel can discern which facility is generating odors from any others and that the facilities are conducting normal operations. SEH will discuss the locations prior to the monitoring week and will check in with the City each day before starting monitoring work. In addition to taking odor values, SEH will also record any odor descriptors present while measuring the odor values. SEH will reference an odor description chart that will be included with the monitoring report of the results. These descriptors will allow us to discern the odor characteristics of each location along with the odor values that quantitatively indicate the intensity of the odors observed during the monitoring.

Engineers | Architects | Planners | Scientists

Short Elliott Hendrickson Inc., 3535 Vadnais Center Drive, St. Paul, MN 55110-5196

SEH is 100% employee-owned | sehinc.com | 651.490.2000 | 800.325.2055 | 888.908.8166 fax

SEH requests that the City review the potentially odorous facilities and any logged complaints with the SEH project team prior to conducting the monitoring. We propose to also discuss the facilities to be monitored and logistics of getting upwind and downwind data for each location. This meeting is proposed to occur two weeks prior to starting the monitoring, perhaps in March 2016. Once monitoring begins on each survey day, SEH staff will use a Nasal Ranger to measure the intensity of odors at the target locations. Upwind and downwind odor observations will be taken with wind directions being confirmed using a Kresbach wind meter. SEH will log the results of the upwind and downwind odor observations and provide a comparison of the data measured for up to five facilities. SEH will obtain weather information (wind speed and direction, air temperature, precipitation, etc.) for each survey day from the Mankato Regional airport meteorological data, which is available hourly on-line. SEH will provide the olfactometer and wind meter for the project.

The results of the monitoring will be documented in a draft report which will be provided to the City for review and comment. SEH will finalize the document based on the comments received from the City. The report will compare the odor data, descriptors and average odor strength downwind for each of the five facility locations.

Task 4 – Technical Support

Once the monitoring report is complete, SEH recommends that the City meet with any significantly odorous facilities to discuss the data with them and ask what they are doing that may be causing the odor, if they have any odor controls that were not working at the time or if there are plans in place to control the odors. SEH proposes to participate in these meetings when requested by the City and to provide the City with technical knowledge on odor control strategies and technologies. SEH will assist the City in discussions with the facilities called in for the meetings. SEH is also available to conduct follow-up odor monitoring to help the City evaluate odor reduction effectiveness of implemented or proposed controls, if desired.

The budget for Task 2 includes 3 meetings with facilities that have significant odors downwind from their operations as determined by the odor monitoring in Task 1. The pre-monitoring planning meeting cost is part of Task 1. SEH assumes that 1 team member (Todd Potas) will attend two of the facility meetings and 2 team members (Todd Potas and one other) will attend one of the facility meetings.

STAFF

SEH project team members understand the City wishes to gauge odor source significance for the monitored facilities. SEH has maintained the following odor monitoring and technical support team members for this project:

<u>Team Members</u>	<u>Rate, \$/hr</u>
Aaron Kutz (trained on 7/11/2014)	70
Katrina Shaw (trained on 7/20/2015)	80
Todd Potas (trained on 7/11/2014)	178

These team members have gone through Nasal Ranger training and have experience taking odor observation data in the field. Sensitivity testing confirming normal sense of smell has been performed on all three members. The proposed project manager, Todd Potas, PE, will assist with odor monitoring the first day and if any issues occur during the monitoring. All equipment and travel costs are included as part of the project.

ESTIMATED COST

SEH will complete these efforts on a time and materials basis. The monitoring task is estimated to cost \$5,800. The estimated cost for the three follow up meetings is \$4,100. We request that the City budget \$9,900 for the proposed scope of work. SEH fees and reimbursable expenses for this effort will not exceed this amount without the prior written authorization from the City. SEH will only bill for services actually incurred. The work will be completed under the terms and conditions of the attached City and SEH master services agreement, dated December 11, 2015.

SCHEDULE

SEH is prepared to begin completing this scope of work upon receipt of your written authorization and expect to start Task 1 during March 2016. Our cost estimate is based on Aaron Kutz or Katrina Shaw conducting most all of the odor survey portion of the scope of work (Task 1- Odor Monitoring). We expect to complete Task 2 by June 30, 2016. We will work with the City to establish a schedule for working with lining up the odor locations and technical support for reviewing complaints, and assigning descriptors to any potentially odorous locations. SEH is willing to train any City staff that would like to learn how to conduct the monitoring at the conclusion of any of the monitoring days and City staff are welcome to join SEH personnel during the odor monitoring observations.

We look forward to working with you and the City on this project. Please contact Todd Potas at 651-490-2174 if you have any questions regarding our proposal.

Sincerely,

SHORT ELLIOTT HENDRICKSON INC.



Todd A. Potas, PE
Project Manager
KS/TAP

ACCEPTED BY AND AUTHORIZATION TO PROCEED: CITY OF LE SUEUR

By: _____
Authorized Client Signature

Date: _____

By: _____
Printed Name

_____ Title