



The City Council of the City of St. Charles welcomes you to its Regular Meeting of Tuesday, January 9, 2024 at 6:00 p.m. at 830 Whitewater Avenue, City Council Chambers, St. Charles, MN.

ITEM	ACTION REQUESTED
1. Call to Order	
2. Pledge of Allegiance	
3. January 9, 2024 - Agenda	APPROVE
4. Consent Agenda	APPROVE
a. December 12, 2023 – City Council Minutes	
b. Hire Member for the Fire Department	
c. 2024 Ambulance Agreements	
5. Payables & Financials	APPROVE
6. Notices and Communications (if applicable)	INFORMATION
7. Reports of Boards and Committees:	INFORMATION
a. Administrator’s Report	
b. Public Works Superintendent Report, Scott Bunke	
c. Chief of Police Report, Jose Pelaez	
d. Library Board, David Kramer	
e. EDA, Wayne Getz	
f. School Board, John Steffel	
8. Basic Emergency Management Certificate Presentation	PRESENTATION
9. Professional Services Agreement – Building Inspection Services - MNSPECT	APPROVE
10. Whitewater River Restoration Phase Two Grant	INFORMATION

UNSCHEDULED PUBLIC APPEARANCES: Members of the audience may address any item not on the agenda. State Statute prohibits the City Council from discussing an item that is not on the agenda, but the City Council does listen to your concerns and has staff follow up on any questions you raise. Each member of the audience is allotted one three minute block of time to speak.

ADJOURNMENT



**MEMORANDUM for the CITY COUNCIL of St. Charles for
Tuesday, January 9, 2024**

4. Consent Agenda

a. December 12, 2023 – Regular City Council Minutes

b. Hire Member for the Fire Department – The Fire Department has solicited for new recruits, conducted interviews, and performed background checks. They are requesting the council’s approval to hire Joseph Dammann.

c. 2024 Ambulance Agreements – The St. Charles and Lewiston City Administrators have worked collaboratively to update the following three agreements listed below. The agreements are largely the same as the 2023 versions, with the exception of an additional fee charges to St. Charles once a fulltime EMT has been hired.

- Ambulance Service Agreement
- Equipment Loan Agreement
- Premises Agreement

8. Basic Emergency Management Certificate Presentation – Please review the attached memo from Chief Pelaez in the packet.

9. Professional Services Agreement – Building Inspection Services – MNSPECT – Enclosed you will find an agreement from MNSPECT to provide building inspection services for the City of St. Charles. With the council’s approval, we will transition from WSE/CMS to MNSPECT. This move is supported by me and the administrative staff. I’m requesting a motion to approve the agreement with MNSPECT, end services with CMS with a 10 day notice, and transition outstanding building permit to MNSPECT.

10. Whitewater River Restoration Phase Two Grant – St. Charles was once again selected as a grant recipient from the MN DNR to assist with phase two of the Whitewater River Restoration Project. The first phase of the project reduced flooding in the project area. The grant is for \$500,000.00 with a 10% match from St. Charles of \$50,000. The project is slated to occur in 2025, with our funding portion to come from the CIP fund. I am currently working with WHKS to complete the grant agreement paperwork, which will be presented to the council at a future meeting for approval.

**MINUTES of the ST. CHARLES CITY COUNCIL
for Tuesday, December 12, 2023, held at 6:00 p.m. at
830 Whitewater Avenue,
St. Charles, Minnesota**

MEMBERS PRESENT:

Mayor John Schaber
Wayne Getz
David Kramer
Dave Braun
John Steffel

MEMBERS ABSENT:

STAFF PRESENT: Andrew Langholz (City Administrator).

OTHERS IN ATTENDANCE: Daren Sikkink (WHKS), Brittany Hennessy (Habitat for Humanity), and Linda Milburn (Resident).

1. ESTABLISH QUORUM/CALL TO ORDER

Quorum was present with Mayor Schaber calling the meeting to order at 6:00 p.m.

2. PLEDGE of ALLEGIANCE

3. APPROVAL of the AMENDED AGENDA:

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

4. Consent Agenda:

a. November 14, 2023 – Regular City Council Minutes

b. November 28, 2023 - Regular City Council Minutes

c. Designate Official Newspaper – St. Charles Press.

d. Designate Official Depositories – Merchants Bank of St. Charles, Bremer Bank of St. Charles, and Wells Fargo Investments.

e. Designate Acting Mayor – Dave Braun.

f. Designate Mayoral Committees

Dave Braun – Park Board.

David Kramer – P&Z, Library, Sanitary District, Public Works.

John Steffel – School Board.

Wayne Getz – Sanitary District, High Speed Rail, EDA, P&Z.

John Schaber – EDA, Communication and Technology, Public Safety, High Speed Rail.

g. Designate City Attorney – Flaherty & Hood.

h. Cancel the December 26, 2023 Council Meeting

i. Hiring Members for the Fire Department

Hiring of Jared Wohlferd, David Hanson III, Joseph Dammann, Carl Griffen II, and Cory Dunlay.

j. RCA – Leave Time Carryover

k. MOU – St. Charles & Vita

I. Designate Board Members

Library Board – Barbara Lecy, Janis Martin, and JoAnn Wegman.

Park & Recreation Board – Heath Sanders and Eric Manly.

Planning & Zoning Board – Terry Jones.

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

5. Notices and Communications. None

6. Review of Payables.

Motion to approve: **David Kramer**

No further discussion.

Motion declared carried.

7. Reports of Boards and Committees. The Council reviewed reports from the City Administrator, Public Works, Police, Library, Park, EDA, School Board, and the Ambulance.

8. Brittany Hennessy – Habitat for Humanity Executive Director

Mrs. Hennessy introduced herself and shared the progress of the twin homes that are being built in the Southfork Fourth Addition. She stated that there has been a lot of support from the community with many volunteers and encouraged the council members to volunteer with the construction. Mrs. Hennessy requested that the council consider waiving certain permit fees to aid in the project and encouraged advocacy efforts.

9. Presentation & Bid Advertisement – 11th Street Project

Darren Sikkink from WHKS provided information on the proposed 11th Street Project. The project will receive funding from the State under the Local Bridge Replacement Program, which will need to pass through Winona County due to our population being under 5,000. The project itself will include the replacement of a box culvert and bridge, widening of the road, and realignment of the multi-use trail. The estimated cost for St. Charles is \$120,000. Mr. Sikkink requested that the council approve advertising for bids, with an anticipated bid opening on January 18, 2024.

Motion to advertise for bids for the 11th Street Project: **John Steffel**

No further discussion.

Motion declared carried.

10. 2024 Truth In Taxation Hearing & Presentation

Motion to open Truth in Taxation Hearing at 6:33 pm: **Wayne Getz**

Seconded by: **Dave Braun**

Motion declared carried.

City Administrator Langholz made a presentation for the 2024 budget. The final levy is proposed to be 18.94% for taxes collectible in 2024. The increase is primarily due to an increase in funding toward the Capital Improvement Fund from \$140,000 to \$260,000, which equates to 6.56% and a newly imposed levy to support the St. Charles Ambulance Service. This levy is set at \$220,000, which equates to 12.02% of the proposed increase. After the presentation, resident Linda Milburn asked if the city does long range planning. Administrator Langholz stated that St. Charles has a Master Project List that highlights capital improvement needs for the next 15 years. That list is updated frequently and tracks purchases for all enterprise and governmental funds.

With no further discussion Mayor Schaber requested a motion to close the hearing.

Motion to close the Truth in Taxation Hearing at 7:18 pm: **Dave Braun**

Seconded by: **Wayne Getz**

No further discussion.

Motion declared carried.

11. Ordinance #656 Amending Water Rates (2nd Reading)

Motion to approve: **David Kramer**

No further discussion.

Motion declared carried.

12. Ordinance #657 Amending Sewer Rates (2nd Reading)

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

13. Ordinance #658 Amending Admin Fines and Fees (2nd Reading)

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

14. RCA – Subdivision and Zoning Ordinance Update Proposal

Administrator Langholz presented a proposal from HKGi to develop and update the Subdivision and Zoning Ordinances. He presented the information to the EDA Board who made a motion to support the proposal with up to \$10,000 in matching funds from their 2024 budget. Mr. Langholz recommended that the council approve phase one of the proposal at this time at a cost of \$20,000.

Motion to approve phase one of the proposal from HKGi: **John Steffel**

No further discussion.

Motion declared carried.

15. Resolution #40-2023 2024 Interfund Loan from CIP to the Electric fund

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

16. Resolution #38-2023 Approving Final Levy Collectible in 2024

Motion to approve: **Wayne Getz**

No further discussion.

Motion declared carried.

17. Resolution #39-2023 Establishing 2024 Budget

Motion to approve: **David Kramer**

No further discussion.

Motion declared carried.

18. Earned Sick & Safe Time Policy

Motion to approve: **Dave Braun**

No further discussion.

Motion declared carried.

Unscheduled Public Appearances: None

Motion to adjourn: **Wayne Getz**

No further discussion.

Motion carried.

John Schaber, Mayor

ATTEST

Andrew Langholz, City Administrator

**AMBULANCE SERVICES AGREEMENT BETWEEN
THE CITY OF ST. CHARLES AND THE CITY OF LEWISTON**

This Ambulance Services Agreement (the “Agreement”) is made this 1st day of January, 2024, by and between the City of St. Charles (hereinafter referred to as “St. Charles”) and the City of Lewiston (hereinafter referred to as “Lewiston”) for the utilization of Lewiston employees to provide services to St. Charles within the boundaries of St. Charles and within the boundaries of Primary Service Area #0214; (collectively Lewiston and St. Charles are referred to herein as the “parties”).

WHEREAS, St. Charles is authorized and empowered to provide for ambulance services to ensure the public health, welfare, and safety; and

WHEREAS, Lewiston maintains qualified staffing and personnel for the provision of these same services within its own municipal boundaries; and

WHEREAS, by this Agreement, St. Charles can continue to offer such services; and

WHEREAS, pursuant to Minnesota Statutes, Section 471.59, it is the desire of the parties and the purpose of this Agreement that the aforesaid ambulance services required by St. Charles be performed by qualified personnel of Lewiston on behalf of St. Charles within the jurisdictional limits of the Primary Service Area #0214, as described in Attachment A, in accordance with the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the parties agree as follows:

1. Term. The term of this Agreement (the “term”) shall commence effective January 1, 2024, and end on December 31, 2024, unless terminated as provided in paragraphs 7 and 8 below.
2. Scope of Services. For the term of this Agreement, Lewiston, through the use of its personnel and/or agents, shall provide St. Charles with the following services (the “Services”), in and on behalf of St. Charles:
 - a. Ambulance Services. St. Charles Ambulance Service, operated by the Lewiston Volunteer Ambulance, is designated by the Minnesota Emergency Medical Services Regulatory Board (“EMSRB”) as the provider of Basic Life Support level ambulance services to Primary Service Area #0214 (the “Service Area”), as described in Attachment A. It is the intent of the parties that Lewiston performs all of the duties normally performed by a Basic Life Support level ambulance service to the Service Area. As St. Charles’s ambulance service, Lewiston shall be responsible for the following, among others:
 - i. Lewiston shall maintain at least Basic Life Support licensure with the EMSRB for all units to be used in the Service Area.
 - ii. Lewiston shall provide operation management, supervision, medical supervision, and all other supervisory functions necessary for the operation of the Services,

including, but not limited to the continued employment of a full-time Ambulance Director.

- iii. Lewiston shall provide adequate ambulance personnel necessary to maintain a base of operations and the Services within the Service Area at a level consistent with EMSRB requirements.
- iv. Lewiston shall procure uniforms for all ambulance personnel. St. Charles shall be responsible for the cost of such uniforms pursuant to section 6.c. of this Agreement.
- v. Lewiston shall maintain all equipment, supplies, licenses, and memberships necessary for the provision of the Services, including, but not limited to the following:
 1. Provide consortium membership costs.
 2. Procure fuel for St. Charles-based ambulances at St. Charles's expense.
 3. Software for scheduling and coordinating response, which will be cost-shared.
 4. Communication Equipment for the St. Charles substation, which will be provided by St. Charles.
 5. Oxygen.
 6. Disposable Supplies.
- vi. Lewiston shall keep complete and accurate records of costs associated with the Contract generally accepted municipal accounting practices.
- vii. Lewiston shall maintain information regarding actual costs incurred in the performance of this Contract, including, but not limited to: labor, disposable supplies, equipment maintenance, equipment repair, equipment replacement, fuel, insurance, administrative costs, and any other costs associated with this Contract, as requested by St. Charles.

3. St. Charles Responsibilities in Providing Services. St. Charles shall be responsible for the following:

- a. St. Charles shall provide Lewiston with a current list of all equipment, disposable supplies, and other capital assets.
- b. St. Charles shall cooperate with Lewiston in all ways necessary to maintain licensure through EMSRB.
- c. St. Charles shall provide Lewiston with records of all licenses possessed by St. Charles ambulance staff prior to October 1, 2022.
- d. St. Charles shall license Lewiston to occupy and use the ambulance bays, in accordance with the Premises License, attached hereto and incorporated herein by reference as Attachment B.

- e. St. Charles shall be responsible for fuel costs for St. Charles-based ambulances 621 and 623.
 - f. St. Charles shall maintain and make available to Lewiston related capital assets, as contemplated in the Equipment Loan Agreement, dated January 1, 2024, attached hereto and incorporated herein by reference as Attachment C.
4. Standard of Performance. Services provided by Lewiston or its subcontractors and/or sub-consultants under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of such profession. Lewiston shall put forth reasonable efforts to complete its duties in a timely manner. Lewiston shall not be responsible for delays caused by factors beyond its control, or that could not be reasonably foreseen at the time of execution of this Agreement. Lewiston shall be responsible for costs, delays or damages arising from unreasonable delays in the performance of its duties.
5. Communication Process. Lewiston and St. Charles will establish a regular communication process between the City Administrators and/or their designees to communicate on issues and discuss timing for Lewiston to provide and complete services.
6. Compensation for Services. Subject to the limitations set forth in this Agreement, St. Charles will compensate Lewiston in accordance with the schedule of fees below for the time spent in performance of services under this Agreement. Lewiston shall assume the expense of performing the services specified in this Agreement and shall be compensated for the same by St. Charles as provided herein. There shall be no compensation for the services other than as specified in this Agreement.
- a. St. Charles shall pay Lewiston \$5,500.00 per month for general labor and employment costs Lewiston shall incur as a result of this Agreement.
 - b. St. Charles shall pay Lewiston \$3,333.33 per month for labor and employment costs Lewiston shall incur as a result of this Agreement upon the employment of a fulltime EMT/Administrative Assistant by Lewiston.
 - c. St. Charles shall be responsible for the initial cost of uniforms. These costs will be billed to St. Charles directly by the vendor. If the vendor fails to bill the costs directly, St. Charles shall reimburse Lewiston for the initial cost of uniforms within thirty (30) days of receiving an invoice for the cost of uniforms from Lewiston.
 - d. St. Charles shall be responsible for fuel costs for St. Charles-based ambulances 621 and 623 pursuant to section 3.e. of this Agreement.
 - e. St. Charles will make periodic payment to Lewiston at intervals not more often than monthly at the rates specified above for services rendered in the prior month by Lewiston, provided that services have been performed to the satisfaction of the St. Charles City Administrator. Such payments will be made only after Lewiston provides St. Charles with a monthly summary of all services performed under this Agreement. Payment by St. Charles may be withheld for services found by the St. Charles City Administrator to be unsatisfactory or in violation of federal, state, and local laws,

ordinances, rules or regulations. If St. Charles fails to make any payment due Lewiston for services performed to the satisfaction of the St. Charles City Administrator and expenses within thirty (30) days after the date of Lewiston's invoice, Lewiston may, after giving thirty (30) days written notice to St. Charles, and without waiving any claim or right against St. Charles and without incurring liability whatsoever to St. Charles, suspend services under this Agreement until Lewiston has been paid in full all amounts due for services, expenses and charges.

- f. All Lewiston's expense incurred in providing the services are included in the above fees. St. Charles shall not be liable to Lewiston for any expenses paid or incurred by Lewiston, unless otherwise agreed to in writing by St. Charles.

7. Termination. Notwithstanding any of the foregoing, this Agreement may be terminated by either party, without or without cause, as follows:

- a. If by one party, upon the expiration of the ninety (90) days after service of written notice of termination upon the other party; or
- b. At any time, upon mutual agreement of the parties.

8. Default. Notwithstanding any provision hereof, if Lewiston fails to satisfy any of the provisions of this Agreement, or so fails to perform and/or administer the services detailed herein in such a manner as to endanger the performance of this Agreement or the services provided hereunder, this shall constitute default. Unless Lewiston's default is excused in writing by St. Charles or otherwise cured by Lewiston within ten (10) days of such written notice of default from St. Charles, St. Charles may, upon subsequent written notice, immediately cancel/terminate this Agreement or exercise any other rights or remedies available to St. Charles under this Agreement or law. In the event of Lewiston's default, Lewiston shall be liable to St. Charles for any and all costs, disbursements, attorneys and consultant fees reasonably incurred by St. Charles in enforcing this Agreement.

9. Indemnification.

- a. Lewiston agrees to defend, indemnify, and hold harmless St. Charles, and its officials, agents, and employees, from and against all claims, actions, damages, losses, and expenses arising out of or resulting from Lewiston's performance of the services required under this Agreement, provided that any such claim, action, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death or to the injury to or destruction of property including the loss of use resulting therefrom and is caused in whole or in part by any negligent act or omission or willful misconduct of Lewiston. This provision shall not be construed as a waiver by either party of any defenses, immunities, or limits on liability with respect to claims made by third parties.
- b. St. Charles agrees to defend, indemnify, and hold harmless Lewiston, and its officials, agents, and employees from and against all claims, actions, damages, losses, and expenses arising out of or resulting from St. Charles's performance of the duties required under this Agreement, provided that any such claim, action, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death or to the injury to or destruction

of property including the loss of use resulting therefrom and is caused in whole or in part by any negligent act or omission or willful misconduct of St. Charles. This provision shall not be construed as a waiver by either party of any defenses, immunities, or limits on liability with respect to claims made by third parties.

- c. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.
- d. The parties shall be considered a single governmental unit for purposes of calculating any liability hereunder and the total maximum liability shall not exceed the limits on governmental liability for a single governmental unit pursuant to Minnesota Statutes, section 471.59, subd. 1a(b) and Minnesota Statutes, section 466.04.

10. Insurance. Lewiston shall procure and carry, at its expense, liability insurance in an amount not less than the greater of: a) the maximum amount for municipal liability as provided in Minnesota Statutes, section 466.04, as amended; or b) \$2,000,000.00 per occurrence and \$4,000,000 annual aggregate for both bodily injury or death, and property damage, including loss of use, which may arise out of operations by Lewiston or by any subcontractors or by anyone employed by any of them or by anyone for whose acts any of them may be liable (including automobile use). The required automobile liability coverage must include coverage for “any auto” which extends coverage to owned autos, non-owned autos, and hired autos. Such insurance shall include, but not be limited to, minimum coverages and limits of liability specified in this Paragraph, or required by law. St. Charles shall be named as an additional insured, and a certificate of said insurance shall be provided to St. Charles. Lewiston shall procure and carry, at its expense, Worker’s Compensation Insurance as required by Minnesota Statutes, Section 176.181, Subd. 2 and further agrees to provide a certificate of said insurance to St. Charles. All this insurance coverage shall be maintained throughout the life of this Agreement. Lewiston’s policies shall be primary insurance and noncontributory to any other valid and collectible insurance available to St. Charles with respect to any claim arising out of Lewiston’s performance under this Agreement.

Lewiston is responsible for payment of Agreement-related insurance premiums and deductibles. Notwithstanding any provision of this Agreement, St. Charles reserves the right to immediately terminate this Agreement if Lewiston is not in compliance with the insurance requirements contained herein.

St. Charles, as owner of Ambulance 621 and Ambulance 623, agrees to maintain the appropriate automobile coverage with the League of Minnesota Cities Insurance Trust under standard LMCIT liability coverage forms for Ambulance 621 and Ambulance 623, as identified in Attachment C, the Equipment Loan Agreement, and will be responsible for the payment of all premiums for such coverage. St. Charles shall name Lewiston as an additional insured for the purposes of this Agreement.

11. Lewiston Personnel. Any employee assigned by Lewiston to perform its obligations hereunder shall remain the exclusive employee of Lewiston for all purposes including, but not limited to, wages, salary, and employee benefits. For purposes of this Agreement, Lewiston shall remain responsible for all employer-provided benefit costs, including all payroll taxes.

12. General Terms.

- a. Independent Contractor. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of co-partners, joint parties to any joint powers agreement or similar legal relationship between the parties hereto or as constituting the persons employed by Lewiston as the agent, representative, or employee of St. Charles for any purpose or in any manner whatsoever except as expressly otherwise provided herein. Lewiston is to be and shall remain an independent contractor with respect to all services performed under this Agreement. Lewiston represents that it has, or will secure at its own expense, all personnel in performing services under this Agreement. Any and all personnel of Lewiston or other persons, while engaged in the performance of any work or services required by St. Charles under this Agreement shall not be considered employees of St. Charles and any and all claims that may or might arise under the Workers' Compensation Act of the State of Minnesota on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against Lewiston, its officers, agents, contracts, or employees shall in no way be the responsibility of St. Charles; and Lewiston shall defend, indemnify, and hold St. Charles, its officers, agents, and employees harmless from any and all such claims regardless of any determination of any pertinent tribunal, agency, board, commission, or court. Such Lewiston personnel or other persons shall not require nor be entitled to any compensation, rights, or benefits of any kind whatsoever from St. Charles, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensations, Unemployment Compensation, disability, severance pay, and PERA.
- b. Records: Availability and Retention. The books, records, documents, and accounting procedures of Lewiston relevant to this Agreement, are subject to examination by St. Charles and either the legislative or state auditor as appropriate, pursuant to Minnesota Statutes, Section 16C.05, Subd. 5. Lewiston agrees to maintain these records for a period of six years from the date of termination of this Agreement.
- c. Modifications/Amendment. Any amendments, addenda, alterations, or modifications to the terms and conditions of this Agreement shall be in writing and signed by both parties.
- d. Non-Discrimination. The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein. Lewiston and St. Charles agree to comply with the American with Disabilities Act and not to discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. Upon request, accommodation will be provided to allow individuals with disabilities to participate in all services, programs, and activities. Lewiston has designated coordinators to facilitate compliance with the Americans with Disabilities Act of 1990 (ADA), as required by Section 35.107 of the U.S. Department of Justice regulations, and to coordinate compliance with Section 504 of the Rehabilitation Act of 1973, as mandated by Section 8.53 of the U.S. Department of Housing and Urban Development regulations. For

information contact the City Administrator, City of Lewiston, 75 Rice Street, Lewiston, Minnesota 55920; telephone 507-523-2257.

- e. Compliance with Laws. Both parties agree to comply with all applicable state, federal, and local laws, rules, and regulations now in effect or hereinafter adopted pertaining to this Agreement or to the facilities, programs and staff for which a party is responsible.
- f. Voluntary and Knowing Action. The parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the contents hereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound hereby.
- g. Authorized Signatories. The parties each represent and warrant to the other that: (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.
- h. Notices. All notices and other communications required or permitted under this Agreement shall be in writing, and hand delivered or sent by registered or certified mail, return-receipt requested, postage prepaid, or by overnight delivery service and shall be effective upon receipt at the following addresses or as either party shall have notified the other party. The parties' representatives for notification for all purposes are:

Lewiston: City of Lewiston
 75 Rice St., P.O. Box 129
 Lewiston, MN 55920
 Attention: Bobby Falcon
 Or emailed: administrator@lewistonmn.org

St. Charles City of St. Charles
 830 Whitewater Avenue,
 St. Charles, MN 55972
 Attention: Andrew Langholz
 Or emailed: ALangholz@stcharlesmn.org

- i. Dispute Resolution. The parties agree to negotiate all disputes between them in good faith for a period of thirty (30) days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law.
- j. Subcontracting. Lewiston shall not enter into any subcontract for performance of any services contemplated under this Agreement without the prior written approval of St. Charles. Mutual aid agreements are not considered subcontracting for the purposes of this section.

- k. Assignment. This Agreement may not be assigned by either party without the written consent of the other party.
- l. Force Majeure. The parties shall each be excused from performance under this Agreement while and to the extent that either of them are unable to perform, for any cause beyond its reasonable control. Such causes shall include, but not be restricted to fire, storm, flood, earthquake, explosion, war, total or partial failure of transportation or delivery facilities, raw materials or supplies, interruption of utilities or power, pandemic, and any act of government or military authority. In the event either party is rendered unable wholly or in part by force majeure to carry out its obligations under this Agreement then the party affected by force majeure shall give written notice with explanation to the other party immediately.
- m. Governing Law. This Agreement shall be deemed to have been made and accepted in Winona County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of the Agreement without regard to its choice of law or conflict of laws principles.
- n. Data Practices. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
- o. No Waiver. Any party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.
- p. Patented Devices, Materials and Processes. If this Agreement requires, or Lewiston desires, the use of any design, device, material or process covered by letters, patent or copyright, trademark or trade name, Lewiston shall provide for such use by suitable legal agreement with the patentee or owner. If no such agreement is made, Lewiston shall indemnify and hold harmless St. Charles from any and all claims for infringement by reason of the use of any such patented designed, device, material or process, or any trademark or trade name or copyright in connection with the services agreed to be performed under this Agreement, and shall indemnify and defend St. Charles for any costs, liability, expenses and attorney's fees that result from any such infringement.
- q. Severability. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
- r. Headings and Captions. Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement

and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.

- s. Survivability. All covenants, indemnities, guarantees, releases, representations and warranties by any party, and any undischarged obligations of St. Charles and Lewiston arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration.
- t. Execution. This Agreement may be executed simultaneously in two or more counterparts that, when taken together, shall be deemed an original and constitute one and the same document. The signature of any party to the counterpart shall be deemed a signature to the Agreement, and may be appended to, any other counterpart. Facsimile and email transmissions of executed signature pages shall be deemed as originals and sufficient to bind the executing party.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties have set forth their hands on the day and year first written above.

CITY OF ST. CHARLES

By: _____
John Schaber, Mayor

Date: _____

By: _____
Andrew Langholz, City Administrator

Date: _____

CITY OF LEWISTON

By: _____
Beth Carlson, Mayor

Date: _____

By: _____
Bobby Falcon, City Administrator

Date: _____

Attachment A

Attachment B

Attachment C

Minnesota Emergency Medical Services Regulatory Board (EMSRB)
PRIMARY SERVICE AREA

Ambulance Service: ST. CHARLES AMBULANCE, ST. CHARLES

EMS#: 214

Region: Southeast

Service Level: Basic

The Primary Service area is within the following County or Counties: Olmsted, Winona

The Primary Service includes the following Cities: Elba, Dover, St. Charles

Townships:

In Olmsted Co.;

T105NR11W - sections 1 through 3, 10 through 14, 23, 24

T106NR11W - sections 1 through 3, 10 through 15, 22 through 27, 34 through 36

T107NR11W - sections 13 through 15, 22 through 27, 34 through 36

In Winona Co.;

T105NR10W

T106NR10W

T107NR10W - sections 7, SW corner of section 8, 15 through 23, 26 through 35

This primary service area is the legal primary service area designated by the EMSRB. Any proposed changes must be reported to the EMSRB for prior approval.

04/2011

**EQUIPMENT LOAN AGREEMENT
BETWEEN THE CITY OF ST. CHARLES AND THE CITY OF LEWISTON**

This agreement (“Agreement”) is made and entered into by and between the City of St. Charles, Minnesota (the “Lender”) and the City of Lewiston, Minnesota (the “Borrower”).

1. Loaned Equipment. In exchange for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Lender agrees to loan the equipment identified in Attachment A (the “Equipment”) to the Borrower.
2. Fees. No fee shall be paid by the Borrower for the use of the Equipment.
3. Term. The Borrower shall be entitled to use the Equipment until the Lender recalls the Equipment or the Borrower returns the Equipment, whichever date is the earliest. The Lender may recall the Equipment at any time. The Lender and any officer, employee, or agent of the Lender may not be held liable for recalling the Equipment.
4. Return of Equipment. The Borrower is responsible for examining the Equipment prior to receiving it from the Lender and must return the Equipment in the same condition in which it was received, except for normal wear and tear. Any Equipment using fuel or other fluids must be returned with the same level of fuel that the Equipment had when loaned to the Borrower. Any disposable supplies used out of the vehicle must also be replaced.
5. Routine Maintenance. The Borrower is responsible for coordinating routine maintenance required to operate the Equipment while in the Borrower’s possession. Routine maintenance includes, but is not limited to: lubricants, fluids, repair of a flat tire, and other items that are typically incidental to the use of the Equipment.
6. Trained Personnel. The Borrower agrees that only trained personnel shall be allowed to operate the Equipment. The Borrower will ensure that all City of Lewiston personnel operating vehicles are properly trained when the equipment is received.
7. Transportation. Personnel from the St. Charles Ambulance & Lewiston Ambulance will work together to move the vehicle from City to City depending on staffing needs. The City of Lewiston ambulance director will decide when the Ambulance should be placed at the St. Charles or Lewiston facility.
8. Storage. Borrower shall store the Equipment in a safe place while in the Borrower’s possession. The vehicle will be stored inside the St. Charles Public Safety Building or the Lewiston Fire Station.
9. Insurance. The Borrower agrees to maintain the appropriate automobile, property, and liability coverages with the League of Minnesota Cities Insurance Trust under standard LMCIT liability coverage forms. The required automobile liability coverage must include coverage for “any auto” which extends coverage to owned autos, non-owned autos, and hired autos. The Borrower shall add the Lender as an “additional insured” to the

Borrower's liability coverage for purposes of this Agreement, a certificate of said insurance shall be provided to St. Charles. The Borrower's coverage shall be primary and non-contributory to any other coverage available to the Lender.

Lender, as owner of Ambulance 621 and Ambulance 623, agrees to maintain the appropriate automobile coverage with the League of Minnesota Cities Insurance Trust under standard LMCIT liability coverage forms for Ambulance 621 and Ambulance 623, as identified in Attachment A, and will be responsible for the payment of all premiums for such coverage. The Lender shall add the Borrower as an "additional insured" to the Lender's liability coverage for purposes of this Agreement.

10. Workers' Compensation. The Borrower shall be responsible for injuries to or death of its own personnel while using the Equipment. The Borrower will maintain workers' compensation insurance covering its own personnel while they are using the Equipment. The Borrower waives the right to sue the Lender for any workers' compensation benefits paid to its own personnel or their dependents, even if the injuries were caused wholly or partially by the negligence of the Lender or its officers, employees, volunteers, or agents.
11. Damage to Equipment. The Borrower shall only be responsible for damage to or loss of the Equipment caused by grossly negligent actions of the Borrower or Borrower's agents while the Equipment is in the Borrower's possession.
12. Indemnification. To the fullest extent permitted by law, the Borrower agrees to defend, indemnify, and hold the Lender harmless against any claims brought or actions filed against the Lender or any officer, employee, or agent of the Lender for injury to, death of, or damage to the property of any third person or persons, arising from the Borrower's negligent use of the Equipment or the Borrower's failure to perform its obligations under this Agreement.
13. Entire Agreement. This Agreement supersedes any prior or contemporaneous representations or agreements, whether written or oral, between the Borrower and Lender and contains the entire agreement.
14. Amendments. Any modification or amendment to this Agreement shall require a written agreement signed by both the Borrower and the Lender.
15. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Minnesota.
16. Data Practices. The parties acknowledge that this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 *et seq.*
17. Captions. Captions or headings contained in this Agreement are included for convenience only and form no part of the agreement between the Borrower and the Lender.

18. Waivers. The waiver by either the Borrower or the Lender of any breach or failure to comply with any provision of this Agreement by the other party shall not be construed as, or constitute a continuing waiver of such provision or a waiver of any other breach of or failure to comply with any other provision of this Agreement.
19. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
20. Savings Clause. If any court finds any portion of this Agreement to be contrary to law or invalid, the remainder of the Agreement will remain in full force and effect.
21. Effective Date. This Agreement is effective as of January 1, 2024.

IN WITNESS WHEREOF, the Borrower and Lender, by the action of their respective governing bodies, caused this Agreement to be approved.

CITY OF ST. CHARLES, MINNESOTA

CITY OF LEWISTON, MINNESOTA

Dated: _____

Dated: _____

BY: _____
Its Mayor

BY: _____
Its Mayor

AND: _____
Its Administrator

AND: _____
Its Administrator

ATTACHMENT A

Equipment

Equipment Name	Model #	Serial Number	Amount	Location
Vehicles				
Ambulance 621	2006 Ford E-450	1FDXE45P76HA72980		SC STATION
Ambulance 623	2022 Ford E-450	1FDXE4FN5PDD35926		SC STATION
Capital				
Stryker Stetcher (Powered)	6500 Power Pro XT	#070839963	1	
Stryker Stetcher (Powered)	6500 Power Pro XT	111141084	1	
Stryker Stetcher (Non-Powered)	Model 6000	123915	1	
Stetcher Battery Smart Charger			1	
Stetcher Battery Regular Charger			1	
Stetcher Batteries 2022			2	
Stetcher Batteries 2019			1	
Zoll X Series Montitor		AR14J010101		
Rechargeable Battery		AJ21HAS6217	1	
Rechargeable Battery		AJ14IAS1335	1	
Battery Charger (External)		AT14H001985	1	
Lucas Device (manufactured 12/28/16)		3516 1371	1	
Batteries (manufactureed 2016)			2	
Stair Chair Stryker	Stair Pro	110740475	1	
Casmed Vital Machines			2	
Generic cot batteries			4	
Cardiovascular				
Automatic External Defibrillator (AED)				
Phillips FR2 Heartstart				
Adult Pads DP				
Adult SmartPads2				
Pediatric Pads				
Pediatric Key				
Replacement Battery				

PREMISES LICENSE
ST. CHARLES EMS STATION

THIS AGREEMENT (“Agreement”) is made and entered into this 1st day of January 2024, by and between the City of St. Charles, a municipal corporation under the laws of the State of Minnesota (the “City” or “Licensor”); and the City of Lewiston, a municipal corporation under the laws of the State of Minnesota (“Licensee”); (collectively the Licensor and Licensee are referred to herein as the “Parties”).

WITNESSETH:

WHEREAS, the City owns real property located at 613 Church Ave, Saint Charles, MN 55972, legally described as Sect-19 Twp-106 Range-10 ORIGINAL PLAT Lot 2, Lot 3, and Lot 6 (the “City Property”); and

WHEREAS, the City owns and operates the Public Safety Building, which is located on the City Property and the City is responsible for all use of and financial obligations associated with the City Property and Public Safety Building located thereon; and

WHEREAS, part of the Public Safety Building is constructed and equipped to operate as an Emergency Medical Services Station (“EMS Station”) and has been used to provide ambulance services to EMSRB Primary Service Area #214 (“PSA #214”) ; and

WHEREAS, Licensee is providing ambulance services to PSA #214 on behalf of the Licensor, according to the terms of the Ambulances Services Agreement between the Parties, dated January 1, 2024, including the Licensee’s use of the EMS Station for purposes of an ambulance services substation; and

WHEREAS, the City is willing to permit the use described above subject to the terms, covenants, and conditions contained herein.

NOW, THEREFORE, IT IS AGREED by and between the Parties as follows:

1. **Grant of License and Description of Licensed Premises.** The Licensor hereby grants to Licensee a non-exclusive, terminable license to use the EMS Station located on the City Property, as described below, for the benefit of and for purposes of providing ambulance services to PSA #214 during the term of this Agreement, in conformance with City rules and regulations and applicable law and City ordinances, as the same may be amended from time to time.

The Licensed Premises for the above-licensed purposes located on the City Property, includes the parking lot located at 613 Church Ave, Saint Charles, MN 55972, as described above (the “Licensed Premises”).

2. **License Fee.** Licensee shall pay to the City, as and for the use of the Licensed Premises,

a license fee of \$100.00 (one-hundred dollars). The License Fee shall be paid by Licensee to the City commensurate with the execution hereof.

3. **Maintenance.** Licensor shall be responsible for providing maintenance and general premises insurance for the Licensed Premises during the term of this Agreement. All maintenance provided shall be at the sole cost of the Licensor.
4. **License Terms.** This Agreement shall commence on the date first noted above and continue until December 31, 2024.

Notwithstanding the foregoing, this Agreement may be terminated; 1) by mutual agreement of the Parties at any time; or 2) as otherwise provided for in this Agreement. Notice of termination shall be given in writing at least 30 days in advance of the effective date of such termination.

5. **Condition of Licensed Premises Not Warranted.** Licensee acknowledges that it has inspected the Licensed Premises and accepts the same in an “as is” condition. The Licensor does not warrant that the Licensed Premises is suitable for the purposes for which it is permitted to be used under this License. The Licensor shall have no responsibility with regard to any failure of or damages related to Licensee’s use of the Licensed Premises. Licensee understands and acknowledges that this License grants it only a nonexclusive, terminable license to use and maintain the Licensed Premises only for the purposes stated herein, and does not confer any permanent property rights with respect to the Licensed Premises or the City Property.
6. **Maintenance and Other Conditions.** The Licensor’s grant of a nonexclusive, terminable license, in addition to the other terms contained herein, is subject to the following conditions:
 - a. Licensee shall make no alterations to the Licensed Premises or the City Property.
 - b. Licensee shall take all necessary precautions to protect and preserve the City Property and the Licensed Premises during any activities within or use of the Licensed Premises as contemplated in this Agreement.
 - c. Licensee shall take all necessary precautions to avoid creating unsafe or unsanitary conditions within the Licensed Premises.
 - d. Licensee shall be responsible for the costs associated with any damage to the City Property or the Licensed Premises, which is caused by Licensee as a result of its use of or operations within the Licensed Premises or on the City Property. Licensee shall pay such costs within thirty (30) days of Licensee’s receipt of a billing statement for such charges from the City.
 - e. Licensee shall not intentionally commit or allow to be committed any waste on, destruction of, or damage to, or nuisance on the Licensed Premises or City Property. In the event of such occurrence, Licensor may immediately terminate this Agreement, unless such waste, destruction or damage is repaired to

Licensor's satisfaction by Licensee, at Licensee's cost, within the 30 day notice period.

- f. Licensee shall maintain access for City staff at all times during the term of the License.

7. Use of Licensed Premises.

- a. Licensee shall use the Licensed Premises only for the purposes of providing ambulance services.
- b. Subject to the other terms and provisions contained herein, Licensee shall be permitted to use the Licensed Premises only for the specific purposes herein stated; provided, however, that during the License Term, Licensee shall comply with all applicable laws, regulations, conditions, and covenants affecting the Licensed Premises, whether federal, state, local, or contractual.

- 8. Waiver and Assumption of Risk.** Licensee knows, understands and acknowledges the risks and hazards associated with using the Licensed Premises for the purposes permitted herein and hereby assumes any and all risks and hazards associated therewith. Licensee hereby irrevocably waives any and all claims against the Licensor or any of their officials, employees or agents for any bodily injury (including death), loss or property damage incurred by Licensee or any person using the Licensed Premises pursuant to the use authorized by this Agreement and hereby irrevocably releases and discharges the Licensor and any of their officials, employees or agents from any and all such claims of liability related in any way to the Licensed Premises, the City Property, or the Licensor's maintenance, repair or other work conducted within the Licensed Premises, by Licensee, Licensor, or any other third party during the times and for the use authorized by Licensee by this Agreement.

- 9. Licensor Right of Entry.** The Licensor, their employees, and their agents shall have the right to enter the Licensed Premises at all times for all reasonable purposes, including, without limitation, enforcing all applicable laws, regulations and/or ordinances, keeping the peace, and inspecting, cleaning, repairing, altering, or improving the Licensed Premises, or any maintenance, repair or other work conducted within the Licensed Premises by the Licensor for utility purposes or otherwise deemed necessary or appropriate by Licensor. Nothing in this Agreement shall be interpreted as requiring the Licensor to perform any such acts independent of the requirements of the other provisions of this Agreement. The Licensor may order the immediate cessation of any Licensee improvements, uses, project or work within the Licensed Premises or on City Property that exceeds the scope of this Agreement or otherwise poses a threat to the life, health, safety or welfare of the public. The Licensor may order Licensee to correct any use or work to comply with applicable standards, conditions, laws ordinances or this Agreement within the Licensed Premises.

Licensor authorized or permitted private utility companies, shall have the right to enter the Licensed Premises to conduct any installation, construction, maintenance, repair or

other work deemed necessary or appropriate for utility purposes.

10. **Assignment or Transfer.** Licensee shall have no right to assign its interest in this Agreement without the prior written consent of Licensor.
11. **Indemnification.** Licensee shall defend, indemnify and hold the City harmless from any liability, loss, cost, and obligations, including reasonable attorneys' fees, arising out of the condition, maintenance or use of the Licensed Premises, including any accident or other occurrence causing or inflicting injury and/or damage to any person or property, happening or done, in, upon, or about the Licensed Premises, or due directly or indirectly to this Agreement, or the condition, maintenance or use of the Licensed Premises by Licensee, Licensee's employees, members, board, officers, agents, volunteers, clients, patrons, contractors and invitees. The indemnification provision of this Paragraph shall not apply to damages or other losses proximately caused by or resulting from the negligence or willful misconduct of the City. All indemnification obligations shall survive termination, expiration or cancellation of this Agreement.
12. **Default.** If Licensee fails to perform any of the provisions of this Agreement, this shall constitute default. Unless the Licensee's default is excused by the Licensor or timely cured by Licensee as provided in the notice from the Licensor, the Licensor may, upon written notice, terminate this Agreement or exercise any other rights or remedies available to the Licensor under this Agreement or law.
13. **Effective Date.** The effective date of this Agreement shall be as written above.
14. **Holding Over.** If Licensee without the consent of Licensor retains possession of the Licensed Premises or any part thereof after termination of the License Term, then Licensor can elect to recover possession of the Licensed Premises by pursuing its rights under this License or at law. In such event Licensor shall further be able to recover in damages for the period Licensee holds over an amount equal to one hundred fifty percent (150%) of the License Fee which Licensee was obligated to pay for the License Term computed on a daily basis until Licensor receives possession of the Licensed Premises and in addition thereto, Licensee shall pay Licensor all direct damages sustained by reason of Licensee's retention of possession. Alternatively, Licensor can elect to grant Licensee a new license, the terms of which are to be determined at that time.

Licensor shall exercise its election of one of the above described alternatives by delivering a written notice thereof to Licensee within thirty (30) days after the first day of Licensee's retention of possession beyond the License Term.

15. **General Terms.**

- a. **Voluntary and Knowing Action.** The Parties, by executing this Agreement, state that they have carefully read this Agreement and understand fully the

contents thereof; that in executing this Agreement they voluntarily accept all terms described in this Agreement without duress, coercion, undue influence, or otherwise, and that they intend to be legally bound thereby.

b. **Authorized Signatories.** The Parties each represent and warrant to the other that (1) the persons signing this Agreement are authorized signatories for the entities represented, and (2) no further approvals, actions or ratifications are needed for the full enforceability of this Agreement against it; each party indemnifies and holds the other harmless against any breach of the foregoing representation and warranty.

c. **Attorneys' Fees.** If any action at law or in equity shall be brought by Licensor on account of any breach/default of this Agreement by Licensee or for the recovery of the possession of the Licensed Premises or to recover costs, expenses or payments to which the Licensor are entitled under this Agreement, Licensor shall be entitled to recover from Licensee reasonable attorney's fees, the amount of which shall be fixed by the Court and shall be made a part of any judgment or decree rendered.

d. **Recitals.** The recitals to this Agreement are made a part hereof and incorporated herein by reference.

e. **Notices.** The Parties' representatives for notification for all purposes are:

Lewiston: City of Lewiston
75 Rice St., P.O. Box 129
Lewiston, MN 55920
Attention: Bobby Falcon
Or emailed: administrator@lewistonmn.org

St. Charles City of St. Charles
830 Whitewater Avenue,
St. Charles, MN 55972
Attention: Andrew Langholz
Or emailed: ALangholz@stcharlesmn.org

All communications, demands, notices, or objections permitted or required to be given or served under this Agreement shall be in writing and shall be deemed to have been duly given or served if delivered in person to the other party or e-mailed with a send receipt.

f. **No Partnership, Joint Venture, or Fiduciary Relationship.** Nothing contained

in this Agreement shall be interpreted as creating a partnership, joint venture, or relationship of principal and agent between Licensee and Licensor.

- g. **Modifications/Amendment.** Any alterations, variations, modifications, amendments or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, and signed by authorized representative of the Parties and consents hereto.
- h. **Records—Availability and Retention.** Pursuant to Minn. Stat. § 16C.05, subd. 5, Licensee agrees that the Licensor, the State Auditor, or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of Licensee and involve transactions relating to this Agreement. Licensee agrees to maintain these records for a period of six years from the date of termination of this Agreement.
- i. **Cumulative Rights.** Except as otherwise expressly stated herein, no right or remedy herein conferred on or reserved to Licensee or Licensor is intended to be exclusive of any other right or remedy hereby provided by law, but each shall be cumulative in, and in addition to, every other right or remedy given herein or hereafter existing at law, in equity, or by statute.
- j. **Compliance with Laws.** Licensee shall abide by all Federal, State and local laws, statutes, ordinances, rules and regulations now in effect or hereinafter adopted pertaining to this Agreement.
- k. **Governing Law.** This Agreement shall be deemed to have been made and accepted in Winona County, Minnesota, and the laws of the State of Minnesota shall govern any interpretations or constructions of this Agreement without regard to its choice of law or conflict of laws principles.
- l. **Data Practices.** The Parties acknowledge that data collected pertaining to this Agreement is subject to the requirements of Minnesota's Government Data Practices Act, Minnesota Statutes, Section 13.01 et seq.
- m. **No Waiver.** Any Party's failure in any one or more instances to insist upon strict performance of any of the terms and conditions of this Agreement or to exercise any right herein conferred shall not be construed as a waiver or relinquishment of that right or of that party's right to assert or rely upon the terms and conditions of this Agreement. Any express waiver of a term of this Agreement shall not be binding and effective unless made in writing and properly executed by the waiving party.

- n. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision. Any invalid or unenforceable provision shall be deemed severed from this Agreement to the extent of its invalidity or unenforceability, and this Agreement shall be construed and enforced as if the Agreement did not contain that particular provision to the extent of its invalidity or unenforceability.
- o. **Entire Agreement.** These terms and conditions constitute the entire agreement between the parties regarding the subject matter hereof. All discussions and negotiations are deemed merged in this Agreement.
- p. **Headings and Captions.** Headings and captions contained in this Agreement are for convenience only and are not intended to alter any of the provisions of this Agreement and shall not be used for the interpretation of the validity of the Agreement or any provision hereof.
- q. **Survivability.** All indemnities, guarantees, releases, representations and warranties by any party or parties, and any undischarged obligations of Licensee and Licensor arising prior to the expiration of this Agreement (whether by completion or earlier termination), shall survive such expiration for a period of five years from the effective date thereof.
- r. **Exhibits.** The exhibits attached to this Agreement are considered an integral part of it as if fully set forth within it.

[Remainder of page left intentionally blank]

IN WITNESS WHEREOF, this Agreement has been executed the day and year first above written.

**LICENSOR
CITY OF ST. CHARLES**

By: _____
John Schaber, Mayor

Date: _____

By: _____
Andrew Langholz, City Administrator

Date: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by John Schaber and Andrew Langholz, the Mayor and City Administrator of St. Charles, a Minnesota municipal corporation.

Notary Public



City Administrator's Report— December 2023

- Attended Meetings Regarding:
 - Council Meeting
 - Building Inspections
 - Subdivision & Zoning Ordinance Update
 - EDA Meeting
 - Radio Replacement
 - Compensation Study
 - Emergency Management Meeting
 - Ambulance Training
 - Hwy 74 Bridge Replacement - 2025

- 2024 Budget
 - Update ordinances with new rates
 - Finalize 2024 budget
 - Submit paperwork to State of Mn and Winona County

- Zoning Administration
 - Ordinance Enforcement
 - Enforcement of Development Agreement

- Misc.
 - Earned Sick & Safe Time Policies
 - Write performance reviews

December 2023 Public Works Report:

Street Department

Working on putting up and replacing street signs around town, sweeping streets, cleaning out catch basins with the vac truck, maintenance on trucks and equipment, getting the total Patcher ready for crack filling, working on thermostats at City Hall, Sidewalk inventory (looking for bad trip hazards), chainsaw maintenance (chain sharpening and inline filters, air filters etc. Cutting trees, dig up and replace 20th st storm sewer pipe and concrete new pipe into catch basin, replace hydraulic lines on sweeper and 2 lines on loader.

Electric Department

Trim trees, fix street lights on HWY 74 and install new fuses, install 50 amp fuses on 3 phase riser poll 3rd St. Transformers on Pine Ridge, dig in 4 new services, monthly generator maintenance and runs, replace street light that was run over (dig up old pole and replace with new pole and head), Year end reports for substation and generators, year end inventory of electrical supplies, shut down 3 phase transformers at NRB and pull out temp service and switch over to permanent 3 phase power, daily locates, electrical disconnects and reconnects, program electric meters, placing order and restocking inventory.

Water Department

Daily checks on wells, lift stations, pump houses, and finals. Climbed water towers, checked water temp, cleaned well houses, found a couple leaks and fixed them, fixed the bubbler in whispering hills towering, water sampling for the month, tree trimming, replace 12 water meters, inventory and read meters, sand salt hills and intersections (2 times) clean up truck.

All employees attended safety meetings and wish you all a Merry Christmas and Happy New Year!!

St. Charles Police Department
830 Whitewater Ave.
St. Charles, MN 55972
Chief, Jose Pelaez #601
(507) 932-8020



January 9, 2024

Police Department

- In December, Officers completed the 25-round Inclement Weather and Low Light Firearms Qualification. All POST-mandated firearms annual firearms training has now been completed.
- In December, Officers completed LEXIPOL's policy Daily Training Bulletins.
- All training objectives for 2023 have been met.

Police Reserves

- Reserve Officers' monthly training/meeting was cancelled due to Ofc. Hewitt and Chief Pelaez illness.

Emergency Management

- In December, Chief Pelaez joined the Minnesota Homeland Security and Emergency Management (HSEM) Region 1 and attended their quarterly meeting in Houston, MN.
- In December, Chief Pelaez completed the following EM training courses: PDS-0230/0235 Principals of Emergency Management and Emergency Planning.
- The Emergency Management Committee met in December. The committee discussed the city's project to purchase new emergency radios; schools' lockdown and reunification protocols and upcoming training; Incident Management training courses available for committee members; special events work groups; and severe-weather shelters. Winona County Emergency Management Director was in attendance to give updates on upcoming training and emergency radios options.

Respectfully submitted,

Chief, Jose Pelaez



MEMO



TO: Andrew Langholz, City Administrator

FROM: Jose Pelaez, Chief of Police

DATE: January 4, 2024

SUBJECT: Basic Emergency Management Certificate Presentation

Michael Peterson, Minnesota Department of Homeland Security and Emergency Management's (HSEM) Region 1's Program Coordinator (RPC) will be presenting me with a training certificate of completion during the next City Council meeting.

I recently completed HSEM's Basic Emergency Management Certificate Program, which is a comprehensive program that includes online, and instructor-led course delivery. I spent approximately 130 hours of training towards this certificate. This certificate program is intended for those who are currently working in emergency management or have a role in emergency preparedness in Minnesota. The curriculum included courses related to incident management and incident command system, emergency operation center operations, leadership, special events contingency planning, emergency exercise development, emergency planning, Integrated Public Alert and Warning System (IPAWS), hazardous weather, public assistance programs, continuity of government, and others.

In 2022, I enrolled in the Basic Emergency Management certificate program to further develop my emergency response and planning skills, as well as to improve the city's readiness to face potential disasters. In 2023, after assuming my new roles as the Emergency Management Director for the city of St. Charles, I made it a priority to complete this program. I completed approximately 130 training hours, and many more commuting between St. Charles and the metro area to attend the in-person courses.

RPC, Michael Peterson, is planning on presenting the certificate at the next City Council meeting scheduled for Tuesday, January 9, 2024. Please notify the City Council, if necessary.

Building Department Services



December 6, 2023

St. Charles, MN and MNSPECT Partnership



Proposal Overview

MNSPECT proposes the following percentage of fee structure for services performed

- 80% of permit fees (\$50.00 minimum)
- 100% of plan review fees*

*Plan reviews are required on all commercial and residential projects, with the exception of the following residential projects (as defined in the Minnesota Residential Code); residential roof covering replacements, exterior siding replacement like-for-like window and exterior door replacements, plumbing work and mechanical work.

- 100% of the following fees:
 - Re-inspection
 - Copies
 - License look-up fee
 - Inspections outside of normal business hours
 - Lead look-up fee
 - Site inspection fee
 - Hourly fees
 - Moved and pre-moved building fees
 - Special Investigation fees
 - Manufactured home Fees
 - Additional plan review fees

The following print fees apply for plan sheets:

- | | | |
|---------------|---------------------|-----------------------------|
| ▪ 8.5 x 11 | \$1.00/side (color) | \$.25/side (black & white) |
| ▪ 8.5 x 14 | \$1.00/side (color) | \$.25/side (black & white) |
| ▪ 11 x 17 | \$2.00/side (color) | \$.50/side (black& white) |
| ▪ Large Plans | \$4.00/side (color) | \$4.00/side (black & white) |

One set for the job site will be provided at no additional cost. These printing fees apply to requested additional copies of plan sets.

This proposal is contingent on the following items:

- The city will adopt the 1988 UBC fee schedule as discussed
- A sufficient number of surrounding communities will agree to contract with MNSPECT to perform similar services in the next 60 days.



The following Standard hourly fees apply to work not related to permits:

Services/Duties	Hourly Rate
Designated Building Official	\$150.00
Certified Building Official - State Delegation Projects	\$150.00
Certified Building Official	\$105.00
Limited Building Official	\$95.00
Office/Support Staff	\$75.00
Code Enforcement/Nuisance Abatement	\$90.00

**As an added incentive MNSPECT will provide the city with our Community Core permitting software at no additional cost. The normal price for Community Core is a one-time fee of \$49,000 plus a \$1500 licensing fee per user per year.



**PROFESSIONAL SERVICES AGREEMENT
BETWEEN CITY OF ST. CHARLES, MN
AND MNSPECT, LLC**

This Professional Services Agreement (“Agreement”) is made and entered into by and between City of St. Charles, MN, (“Municipality”) and MNSPECT, LLC, a wholly owned subsidiary of SAFEbuilt, LLC, (“Consultant”). Municipality and Consultant shall be jointly referred to as “Parties”.

RECITALS

WHEREAS, Municipality is seeking a consultant to perform the services listed in Exhibit A – List of Services, (“Services”); and

WHEREAS, Consultant is ready, willing, and able to perform Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Municipality and Consultant agree as follows:

1. SCOPE OF SERVICES

Consultant will perform Services in accordance with construction codes, amendments and ordinances adopted by the elected body of Municipality, state laws and regulations that are applicable to the Services provided under this Agreement. The qualified professionals employed by Consultant will maintain current certifications, certificates, licenses as required for Services that they provide to Municipality. Consultant is not obligated to perform services beyond what is contemplated by this Agreement.

Unless otherwise provided in Exhibit C, Consultant shall provide the Services using hardware and Consultant’s standard software package. In the event that Municipality requires that Consultant utilize hardware or software specified by or provided by Municipality, Municipality shall provide the information specified in Exhibit C. Consultant shall use reasonable commercial efforts to comply with the requirements of Exhibit C and Municipality, at its sole expense, shall provide such technical support, equipment or other facilities as Consultant may reasonably request to permit Consultant to comply with the requirements of Exhibit C.

Consultant shall provide the Services using Community Core Solutions hardware and software package in accordance with the provisions of Exhibit C.

2. CHANGES TO SCOPE OF SERVICES

Any changes to Services between Municipality and Consultant shall be made in writing that shall specifically designate changes in Service levels and compensation for Services. Both Parties shall determine a mutually agreed upon solution to alter services levels and a transitional timeframe that is mutually beneficial to both Parties. No changes shall be binding absent a written Agreement or Amendment executed by both Parties.

3. FEE STRUCTURE

In consideration of Consultant providing services, Municipality shall pay Consultant for Services performed in accordance with Exhibit B – Fee Schedule for Services.

4. INVOICE & PAYMENT STRUCTURE

Consultant will invoice Municipality, on a monthly basis and provide all necessary supporting documentation. All payments are due to Consultant within 30 days of Consultant’s invoice date. Payments owed to Consultant but not made within sixty (60) days of invoice date shall bear simple interest at the rate of one and one-half percent (1.5%) per month. If payment is not received within ninety (90) days of invoice date, Services will be discontinued until all invoices and interest are paid in full. Municipality may request, and Consultant shall provide, additional information before approving the invoice. When additional information is requested Municipality will identify specific disputed item(s) and give specific reasons for any request. Undisputed portions of any invoice shall be due within 30 days of Consultants invoice date, if additional information is requested, Municipality will submit payment within thirty (30) days of resolution of the dispute.

5. TERM

This Agreement shall be effective on the latest date on which this Agreement is fully executed by both Parties. The initial term of this Agreement shall be twelve (12) months. Agreement shall automatically renew for subsequent twelve (12) month terms until such time as either Party notifies the other of their desire to terminate this Agreement.

6. TERMINATION

Either Party may terminate this Agreement upon ninety (90) days written notice without cause and with no penalty or additional cost beyond the rates stated in this Agreement.

This Agreement may be terminated for cause at any time if either Party to this Agreement should materially breach any material provision herein. In such case, the non-breaching party will notify the breaching party in writing specifying the respect in which such party has breached the Agreement. In the event that such breach is not remedied to the reasonable satisfaction of the non-breaching party within thirty (30) calendar days after delivery of the above notice, the non-breaching party may, by written notice to the breaching party, terminate this Agreement, effective immediately. If the breach is cured to the satisfaction of the non-breaching party, this Agreement shall continue as if no breach had occurred.

Consultant shall be entitled to receive payment for work completed up to and including the date of termination within thirty (30) days of termination with or without cause.

7. FISCAL NON-APPROPRIATION CLAUSE

Financial obligations of Municipality payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Municipality, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

8. MUNICIPALITY OBLIGATIONS

Municipality shall timely provide all data information, plans, specifications and other documentation reasonably required by Consultant to perform Services (Materials). Municipality has the right to grant and hereby grants Consultant a fully paid up, non-exclusive, non-transferable license to use the Materials in accordance with the terms of this Agreement.

9. PERFORMANCE STANDARDS

Consultant shall perform the Services using that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services. Consultant represents to Municipality that Consultant retains employees that possess the skills, knowledge, and abilities to competently, timely, and professionally perform Services in accordance with this Agreement.

10. INDEPENDENT CONTRACTOR

Consultant is an independent contractor, and, except as provided otherwise in this section, neither Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of Municipality. Municipality shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for Municipality under this Agreement. Consultant shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with Consultant.

Consultant and Municipality agree that Consultant will provide similar service to other clients while under contract with Municipality and Municipality acknowledges that Consultant employees may provide similar services to multiple clients. Consultant shall at its sole discretion assign and reassign qualified employees, as determined by Consultant, to perform services for Municipality. Municipality may request that a specific

employee be assigned to or reassigned from work under this Agreement and Consultant shall consider that request when determining staffing. Consultant shall determine all conditions of employment for its employees, including hours, wages, working conditions, promotion, discipline, hiring and discharge. Consultant exclusively controls the manner, means and methods by which services are provided to Municipality, including attendance at meetings, and Consultant's employees are not subject to the direction and control of Municipality. Except where required by Municipality to use Municipality information technology equipment or when requested to perform the services from office space provided by the Municipality, Consultant employees shall perform the services using Consultant information technology equipment and from such locations as Consultant shall specify. No Consultant employee shall be assigned a Municipal email address as their exclusive email address and any business cards or other IDs shall state that the person is an employee of Consultant or providing Services pursuant to a contractual agreement between Municipality and Consultant.

It is the intention of the Parties that, to the greatest extent permitted by applicable law, Consultant shall be entitled to protection under the doctrines of governmental immunity and governmental contractor immunity, including limitations of liability, to the same extent as Municipality would be in the event that the services provided by Consultant were being provided by Municipality. Nothing in this Agreement shall be deemed a waiver of such protections.

11. ASSIGNMENT AND SUBCONTRACT

Neither party shall assign all or part of its rights or obligations under this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Consultant may assign this Agreement in connection with the sale of all or substantially all of its assets or ownership interest, effective upon notice to Municipality, and may assign this Agreement to its parent, subsidiaries or sister companies (Affiliates) without notice to Municipality. Consultant may subcontract any or all of the services to its Affiliates without notice to Municipality. Consultant may subcontract any or all of the services to other third parties provided that Consultant gives Municipality prior written notice of the persons or entities with which Consultant has subcontracted. Consultant remains responsible for any Affiliate's or subcontractor's performance or failure to perform. Affiliates and subcontractors will be subject to the same performance criteria expected of Consultant. Performance clauses will be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

12. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend, indemnify, and hold harmless Municipality, its elected and appointed officials, employees and volunteers and others working on behalf of Municipality, from and against any and all third-party claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities ("Claims") alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that any such Claims are caused by the negligence of Consultant or any officer, employee, representative, or agent of Consultant. Consultant shall have no obligations under this Section to the extent that any Claim arises as a result of Consultants compliance with Municipal law, ordinances, rules, regulations, resolution, executive orders or other instructions received from Municipality.

To the fullest extent permitted by law and without waiver of governmental immunity, Municipality shall defend, indemnify, and hold harmless Consultant, its officers, employees, representatives, and agents, from and against any and all Claims alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that such Claims are caused by (a) the negligence of, or material breach of any obligation under this Agreement by, Municipality or any officer, employee, representative, or agent of Municipality or (b) Consultant's compliance with Municipal law, ordinances, rules, regulations, resolutions, executive orders or other instructions received from Municipality. If either Party becomes aware of any incident likely to give rise to a Claim under the above indemnities, it shall notify the other and both Parties shall cooperate fully in investigating the incident.

13. LIMITS OF LIABILITY

EXCEPT ONLY AS MAY BE EXPRESSLY SET FORTH HEREIN, CONSULTANT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ERROR-FREE OPERATION, PERFORMANCE, ACCURACY, OR NON-INFRINGEMENT. EXCEPT TO THE EXTENT ARISING FROM MUNICIPALITY'S PAYMENT OBLIGATIONS FOR SERVICES, IN NO EVENT SHALL CONSULTANT OR MUNICIPALITY BE LIABLE TO ONE ANOTHER FOR INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, EXEMPLARY, OR SPECIAL DAMAGES INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST DATA OR OTHER INFORMATION, OR LOST BUSINESS OPPORTUNITY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, INDEMNITY, NEGLIGENCE, WARRANTY, STRICT LIABILITY, OR TORT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMAINING REMEDY. EXCEPT WITH RESPECT TO PAYMENT OBLIGATIONS FOR SERVICES, IN NO EVENT SHALL THE LIABILITY OF MUNICIPALITY OR CONSULTANT UNDER THIS AGREEMENT FROM ANY CAUSE OF ACTION WHATSOEVER (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER LEGAL THEORY, AND WHETHER ARISING BY NEGLIGENCE, INTENTIONAL CONDUCT, OR OTHERWISE) EXCEED THE GREATER OF THE AMOUNT OF FEES PAID TO CONSULTANT PURSUANT TO THIS AGREEMENT OR THE AVAILABLE LIMITS OF CONSULTANTS INSURANCE (SUCH LIMITS DEFINE MUNICIPAL MAXIMUM LIABILITY TO THE SAME EXTENT AS IF MUNICIPALITY HAD BEEN OBLIGATED TO PURCHASE THE POLICIES).

14. INSURANCE

- A. Consultant shall procure and maintain and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below throughout the term of this Agreement. Such coverages shall be procured and maintained with forms and insurers acceptable to Municipality. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- B. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease – policy limit, and one million dollars (\$1,000,000) bodily injury by disease – each employee. Worker's compensation coverage in "monopolistic" states is administered by the individual state and coverage is not provided by private insurers. Individual states operate a state administered fund of workers compensation insurance which set coverage limits and rates. Monopolistic states: Ohio, North Dakota, Washington, Wyoming.
- C. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, and products. The policy shall contain a severability of interest provision and shall be endorsed to include Municipality and Municipality's officers, employees, and consultants as additional insureds.
- D. Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and two million dollars (\$2,000,000) general aggregate.
- E. Automobile Liability: If performance of this Agreement requires use of motor vehicles licensed for highway use, Automobile Liability Coverage is required that shall cover all owned, non-owned, and hired automobiles with a limit of not less than \$1,000,000 combined single limit each accident.
- F. Municipality shall be named as an additional insured on Consultant's insurance coverage.
- G. Prior to commencement of Services, Consultant shall submit certificates of insurance acceptable to Municipality.

15. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.

16. OWNERSHIP OF DOCUMENTS

Except as expressly provided in this Agreement, Municipality shall retain ownership of all Materials and of all work product and deliverables created by Consultant pursuant to this Agreement. The Materials, work product and deliverables shall be used by Consultant solely as provided in this Agreement and for no other purposes without the express prior written consent of Municipality. As between Municipality and Consultant, all work product and deliverables shall become the exclusive property of Municipality when Consultant has been compensated for the same as set forth herein, and Municipality shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. Notwithstanding the preceding, Consultant may use the Materials, work product, deliverables, applications, records, documents and other materials provided to perform the Services or resulting from the Services, for purposes of (i) benchmarking of Municipality's and other client's performance relative to that of other groups of customers served by Consultant; (ii) improvement, development marketing and sales of existing and future Consultant services, tools and products; (iii) monitoring Service performance and making improvements to the Services. For the avoidance of doubt, Municipality Data will be provided to third parties, other than hosting providers, development consultants and other third parties providing services for Consultant, only on an anonymized basis and only as part of a larger body of anonymized data. If this Agreement expires or is terminated for any reason, all records, documents, notes, data and other materials maintained or stored in Consultant's secure proprietary software pertaining to Municipality will be exported into a CSV file and become property of Municipality. Notwithstanding the preceding, Consultant shall own all rights and title to any Consultant provided software and any improvements or derivative works thereof.

Upon reasonable prior written notice, Municipality and its duly authorized representatives shall have access to any books, documents, papers and records of Consultant that are related to this Agreement for the purposes of audit or examination, other than Consultant's financial records, and may make excerpts and transcriptions of the same at the cost and expense of Municipality.

17. CONSULTANT ACCESS TO RECORDS

Parties acknowledge that Consultant requires access to Records in order for Consultant to perform its obligations under this Agreement. Accordingly, Municipality will either provide to Consultant on a daily basis such data from the Records as Consultant may reasonably request (in an agreed electronic format) or grant Consultant access to its Records and Record management systems so that Consultant may download such data. Data provided to or downloaded by Consultant pursuant to this Section shall be used by Consultant solely in accordance with the terms of this Agreement.

18. CONFIDENTIALITY

Consultant shall not disclose, directly or indirectly, any confidential information or trade secrets of Municipality without the prior written consent of Municipality or pursuant to a lawful court order directing such disclosure.

19. CONSULTANT PERSONNEL

Consultant shall employ a sufficient number of experienced and knowledgeable employees to perform Services in a timely, polite, courteous and prompt manner. Consultant shall determine appropriate staffing levels and shall promptly inform Municipality of any reasonably anticipated or known employment-related actions which may affect the performance of Services. Additional staffing resources shall be made available to Municipality when assigned employee(s) is unavailable.

20. DISCRIMINATION & ADA COMPLIANCE

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin or any other category protected by applicable federal or state law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws. Consultant shall comply with the appropriate

provisions of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by Municipality at any time during the term of this Agreement.

21. E-VERIFY/VERIFICATION OF EMPLOYMENT STATUS

Pursuant to FS 448.095, Consultant certifies that it is registered with and uses the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Consultant during the term of the Agreement. Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement and will verify immigration status to confirm employment eligibility. If Consultant enters into a contract with a subcontractor to perform work or provide services pursuant to the Agreement, Consultant shall likewise require the subcontractor to comply with the requirements of FS 448.095, and the subcontractor shall provide to Consultant an affidavit stating that the subcontractor does not employ, contract with or subcontract with an unauthorized alien. Consultant will maintain a copy of such affidavit for the duration of its contract with owner. Consultant is prohibited from using the E-Verify program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

22. SOLICITATION/HIRING OF CONSULTANT'S EMPLOYEES

During the term of this Agreement and for one year thereafter, Municipality shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provided services to Municipality pursuant to this Agreement ("Service Providers"), or who interacted with Municipality in connection with the provision of such services (including but not limited to supervisors or managers of Service Providers, customer relations personnel, accounting personnel, and other support personnel of Consultant). Parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant's trade secrets and other confidential information, its investment in the training of its employees, the stability of its workforce, and its ability to provide competitive building department programs in this market. If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, Parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable. In the event that Municipality hires any such employee during the specified period, Municipality shall pay to Consultant a placement fee equal to 100% of the employee's annual salary including bonus and training cost.

23. COMPLAINTS AND APPEALS

Any complaint about Consultant received by Municipality shall be forwarded to Consultant's representative listed in Notices Section of this Agreement. Municipality shall provide specific complaint details to the extent allowed by law. Consultant will submit a response to the Municipality within ten (10) business days of receipt. MN Rule 1300.0230 provides a mechanism for persons aggrieved by an order, decision, or determination of the Building Official to appeal under the State Building Code. In the event a Municipality does not have an appeals board, appeals will be heard by the State of Minnesota appeals board. All other appeals of Consultant decisions will proceed as required by applicable section of the Municipal code or state law.

24. NOTICES

Any notice under this Agreement shall be in writing and shall be deemed sufficient when presented in person, or sent, pre-paid, first class United States Mail, or delivered by electronic mail to the following addresses:

If to Client:

Andrew Langholz, Administrator
City of St. Charles, MN
830 Whitewater Avenue
St. Charles, MN 55972
Email: alangholz@stcharlesmn.org

If to Consultant:

Joe DeRosa, CRO
SAFEbuilt, LLC
444 North Cleveland, Suite 444
Loveland, CO 80537
Email: jderosa@safebuilt.com

25. FORCE MAJEURE

Any delay or nonperformance of any provision of this Agreement by either Party (with the exception of payment obligations) which is caused by events beyond the reasonable control of such party, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing such performance.

26. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure. The cost thereof shall be borne equally by each Party.

27. ATTORNEY'S FEES

In the event of dispute resolution or litigation to enforce any of the terms herein, each Party shall pay all its own costs and attorney's fees.

28. AUTHORITY TO EXECUTE

The person or persons executing this Agreement represent and warrant that they are fully authorized to sign and so execute this Agreement and to bind their respective entities to the performance of its obligations hereunder.

29. CONFLICT OF INTEREST

Consultant shall refrain from providing services to other persons, firms, or entities that would create a conflict of interest for Consultant with regard to providing the Services pursuant to this Agreement. Consultant shall not offer or provide anything of benefit to any Municipal official or employee that would place the official or employee in a position of violating the public trust as provided under Municipality's charter and code of ordinances, state or federal statute, case law or ethical principles.

30. GOVERNING LAW AND VENUE

The negotiation and interpretation of this Agreement shall be construed under and governed by the laws of the State of Minnesota, without regards to its choice of laws provisions. Exclusive venue for any action under this Agreement, other than an action solely for equitable relief, shall be in the state and federal courts serving Municipality and each party waives any and all jurisdictional and other objections to such exclusive venue.

31. COUNTERPARTS

This Agreement and any amendments or task orders may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, scanned signatures shall be as valid as the original.

32. ELECTRONIC REPRESENTATIONS AND RECORDS

Parties hereby agree to regard electronic representations of original signatures as legally sufficient for executing this Agreement and scanned signatures emailed by PDF or otherwise shall be as valid as the original. Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper

copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

33. WAIVER

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

34. ENTIRE AGREEMENT

This Agreement, along with attached exhibits, constitutes the complete, entire and final agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous agreements, communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidation of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

MNSPECT, LLC

CITY OF ST. CHARLES, MN

By: _____

By: _____

Name: Gary Amato

Name: _____

Title: Chief Administrative Officer

Title: _____

Date: January 3, 2024

Date: _____

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EXHIBIT A – LIST OF SERVICES

1. LIST OF SERVICES

Building Official Services

- Be a resource for Consultant team members, Municipal staff, and applicants
- Help guide citizens through the complexities of the codes in order to obtain compliance
- Monitor changes to the codes including state or local requirements and determine how they may impact projects in the area and make recommendations regarding local amendments
- Provide Building Code interpretations for final approval
- Oversee our quality assurance program and will make sure that we are meeting our agreed upon performance measurements and your expectations
- Oversee certificate of occupancy issuance to prevent issuance without compliance of all departments
- Attend staff and council meetings as requested
- Responsible for reporting for Municipality – frequency and content to be mutually agreed upon
- Issue stop-work notices for non-conforming activities related to provided services – as needed

Building, Plumbing, Mechanical Inspection Services

- Consultant utilizes an educational, informative approach to improve the customer’s experience
- Perform code compliance inspections to determine that construction complies with approved plans
- Meet or exceed agreed upon performance metrics regarding inspections
- Provide onsite inspection consultations to citizens and contractors while performing inspections
- Return calls and emails from permit holders in reference to code and inspection concerns
- Identify and document any areas of non-compliance
- Leave a copy or provide an electronic version of the inspection results and discuss inspection results with site personnel

Plan Review Services

- Provide plan review services electronically or in the traditional paper format
- Review plans for compliance with adopted building codes, local building amendments or building ordinances
- Be available for pre-submittal meetings by appointment
- Coordinate plan review tracking, reporting, and interaction with applicable departments
- Provide feedback to keep plan review process on schedule
- Communicate plan review findings and recommendations in writing
- Return a set of finalized plans and all supporting documentation
- Provide review of plan revisions and remain available to applicant after the review is complete
 - Consultant will return plans and supporting documents

Reporting Services

- Consultant will work with Municipality to develop a mutually agreeable reporting schedule and format

2. COMMUNITY CORE SOLUTIONS TERMS AND CONDITIONS

- Provide Community Core in accordance with the terms and conditions of Exhibit C.

3. MUNICIPAL OBLIGATIONS

- Municipality will issue permits and collect all fees
- Municipality will provide Consultant with a list of requested inspections and supporting documents
- Municipality will intake plans and related documents for pick up by Consultant or submit electronically
- Municipality will provide a monthly activity report that will be used for monthly invoicing
- Municipality will provide zoning administration for projects assigned to Consultant
- Municipality will provide codes books for front counter use

- Municipality will provide office space, desk, desk chairs, file cabinets, local phone service, internet, use of copier and fax
- Municipality will adopt a fee schedule for building department services agreed upon by both Parties

4. TIME OF PERFORMANCE

- Consultant will perform Services during normal business hours excluding Municipal holidays
- Services will be performed on an as-requested basis
- Services will be performed during mutually agreed upon hours
- Building Official or designated representative will be available at the Municipal offices as mutually agreed upon
- Inspectors will be dispatched on an as-requested basis
- Consultant representative(s) will be on-site weekly based on activity levels
- Consultant representative(s) will be available by phone and email
- Consultant representative(s) will meet with the public by appointment

Deliverables			
INSPECTION SERVICES	Perform inspections scheduled prior to 4:00 pm by the end of the next business day or as agreed upon		
PRE-SUBMITTAL MEETINGS	Provide pre-submittal meetings to applicants by appointment		
PLAN REVIEW TURNAROUND TIMES	Provide comments within the following timeframes: Day 1 = first full business day after receipt of plans and all supporting documents		
	<u>Project Type:</u>	<u>Completeness Check</u>	<u>From Complete Submittal</u>
	- Commercial (IBC)	5 business days or less	10 - 15 business days or less
	- Residential (IRC)	2 business days or less	5 - 7 business days or less
Note: Submittal of 8.5" x 11" and/or 11" x 17" color plans may reduce turnaround time by up to two (2) days			

EXHIBIT B – FEE SCHEDULE FOR SERVICES

1. FEE SCHEDULE

- Municipality and Consultant will review the Municipal Fee Schedule and valuation tables annually to discuss making adjustments to reflect increases in the costs incurred by Consultant to provide Services.
- Upon completion of the initial term and annually thereafter, the hourly and flat rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally adjusted, All Urban Consumers, referred to herein as the “CPI”) for the Municipality or, if not reported for the Municipality the CPI for cities of a similar size within the applicable region from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged.
- Consultant fees for Services provided pursuant to this Agreement will be as follows:

Service Fee Schedule:	
Inspection Services <ul style="list-style-type: none"> • Permits Issued Prior to Start Date 	\$95.00 per hour/One Half Hour Minimum
Inspection Services	80% of permit fees (minimum \$50.00) for the initial term.
Plan Review Services*	100% of Municipal Permit Fee as established by ordinance or resolution
Misc Services Includes: <ul style="list-style-type: none"> • Re-inspection fee • License look-up fee • Site inspection • Moved and pre-moved building fee • Manufactured home fee • Copies • Inspections beyond normal business hours • Special investigation fees • Additional plan review fees 	100% of permit fees
Print Fees for Plan Sheets <ul style="list-style-type: none"> • 8.5x11 • 8.5x14 • 11x17 • Large Plans 	<ul style="list-style-type: none"> • \$1.00/side (color) \$.25/side (black and white) • \$1.00/side (color) \$.25/side (black and white) • \$2.00/side (color) \$.50/side (black and white) • \$4.00/side (color) \$4.00/side (black and white)
Building Official Services	\$150.00 per hour
State Delegation Projects	\$150.00 per hour
Certified Building Official	105.00 per hour
Limited Building Official	\$95.00 per hour
Office/Support Staff	\$75.00 per hour
Code Enforcement/Nuisance Abatement	\$90.00 per hour
Municipality will adopt a fee schedule for building department services agreed upon by both Parties	
Hourly inspection time tracked will start when Consultant checks in at Municipality or first inspection site. Time tracked will end when the inspector completes the last scheduled inspection or leaves Municipal office. Time tracked will include travel time between inspection sites and all administrative work related to inspection support.	

*Plan reviews are required on all commercial and residential projects, with the exception of the following residential projects (as defined in the Minnesota Residential Code): residential roof covering replacements, exterior siding replacement, like-for-like window and exterior door replacements, plumbing work and mechanical work

City of St. Charles

BUILDING CODE FEE SCHEDULE

Effective Date: Proposed

Residential Fees

(for permits that are issued over-the-counter and have flat-rate fees)

*(Definition of residential: **IRC-1 Single Family Dwelling:** Any building that contains one dwelling unit used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or occupied for living purposes. **IRC-2 Two-Family Dwelling:** Any building that contains two separate dwelling units with separation either horizontal or vertical on one lot used, intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or occupied for living purposes. **IRC-3 – Townhouse:** Definition: A single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit. Each single-family dwelling unit shall be considered to be a separate building. Separate building service utilities shall be provided to each single-family dwelling unit when required by other chapters of the State Building Code. **IRC-4 Accessory Structure:** Definition: A structure not greater than 3000 ft² in floor area, and not over two stories in height, the use of which is customarily accessory to and incidental to that of the dwelling(s) and which is located on the same lot.*

Maintenance Permit Fees:

- Re-Roof: \$63.00 see handout for when building permit is required.
- Re-Side: \$63.00 see handout for when building permit is required.
- Re-Window: \$63.00 see handout for when building permit is required; replacement of same size windows
- Re-Door/Garage door: \$63.00 replacement of same size doors

(Fences over 7' in height and retaining walls over 4' in height require building permits submitted for plan review and are based on valuation)

Plumbing Permit Fees:

- New fixtures: \$80.00 (minimum) (\$10.00 per fixture after 8 fixtures)
- Lawn Irrigation: \$63.00
- Fixture Maintenance: \$63.00

Mechanical Permit Fees:

- New appliances: \$37.50 each, minimum \$75.00.
- Gas Line (with mechanical permit): \$20.00 per gas line, \$40.00 minimum
- Gas Line only permit: \$63.00
- Appliance Replacement: \$75.00
- Fire Place insert – see Above (Mechanical Permits)
- Fire Place masonry – Based on valuation (building permit required)

Commercial Fees (everything that is not Residential, as defined above)

ALL Commercial permit applications require plan review and permit fees are based on valuation (includes, re-roof, re-side, re-window, re-door, and demolition).

Building Permit minimum: \$75.00
Plumbing Permit minimum: \$75.00
Mechanical Permit minimum: \$75.00
Gas line minimum (unless included with other mechanical work): \$75.00

Fire Sprinkler Systems require regular building permit; fees are based on valuation
Fire Alarm Systems require regular building permit; fees are based on valuation

Sprinkler Permit minimum: \$75.00
Fire Alarm Permit minimum: \$75.00

City of St. Charles

BUILDING CODE FEE SCHEDULE

Valuation Based Fees

Fee Schedule Base: 1988 (modified)

Value up to (and including):		For the first:	Plus	For each additional:
\$4000.00	\$63.00			
\$25,000.00	\$63.00	\$4,000.00	\$9.00	\$1,000 or fraction thereof
\$50,000.00	\$252.00	\$25,000.00	\$6.50	\$1,000 or fraction thereof
\$100,000.00	\$414.50	\$50,000.00	\$4.50	\$1,000 or fraction thereof
\$500,000.00	\$639.50	\$100,000.00	\$3.50	\$1,000 or fraction thereof
\$1,000,000.00	\$2039.50	\$500,000.00	\$3.00	\$1,000 or fraction thereof
\$1,000,000.01 & up	\$3539.50	\$1,000,000.00	\$2.75	\$1,000 or fraction thereof

*Pursuant to MN Rules Chapter 1300.0160 subpart 3, Building permit valuations shall be set by the Building Official. For determining the permit valuation, the Building Official will use the supplied valuation with a minimum value as calculated by the current Building Valuation Data Table, published each May by the Department of Labor and Industry and other data, as needed, for projects not otherwise specified.

Building Permit Related Fees – (commercial and residential)

- **Plan Check/Document Evaluation fee:** 65% of the Permit Fee for Residential and Commercial Projects
- **Master Plan:** When submittal documents for similar plans are approved, plan review fees shall not exceed 25 percent of the normal building permit fee established and charged for the same structure. Plan review fees for the original plan review is 65% of the permit fee.
- **Review of state approved plans:** 25% of the plan review required by the adopted fee schedule (for orientation to the plans)
- **Residential Site Inspection (including initial S.E.C.),** required for all new construction (new homes, detached garages, accessory structures) \$65.00. (Optional Service)
- **Commercial Site Inspection (including initial S.E.C.),** required for all new construction (new buildings and accessory structures) \$95.00. (Optional Service)
- **S.E.C. (Sediment and Erosion Control)** .0006 x permit valuation for all *Building* Permits except Re-Roof, Re-Side, Re-Window, Decks & Interior Remodels; Minimum \$150.00 New Home or Commercial Construction, Minimum \$50.00 on any other non-exempt Construction. (Optional Service)
- **Demolition Permit Fees:** based on valuation. Demolition is the deconstruction of a building or structure.
- **Exterior Structures:**
 - Retaining Wall (over 4' in height): based on valuation
 - Fence (over 7' in height): based on valuation
 - Sheds (over 200 sq. feet): based on valuation
 - Seasonal Swimming Pools: \$
 - (Seasonal residential swimming pools requiring permits (over 24" deep or 5000 gallons in capacity, installed entirely above grade) are allowed to be installed with a single application and approval provided that the same pool is installed in the same location each year. Once approved, the pool may be put up and taken down any number of times. A site plan is required to be approved as a part of the permit submittal, and it must be kept on site for review as needed.)
 - Permanent and In-ground Swimming Pools: Based on Valuation
- **Pre-moved in single family dwelling:** \$175.00 plus travel time and mileage from municipality office (as calculated by Google maps)
- **Pre-moved in accessory structure:** \$125.00 plus travel time and mileage from municipality office (as calculated by Google maps)
- **Connection fee – Moved in structure:** \$275.00 (does not include foundation/interior remodel)
- **Connection fee – Accessory structure:** \$200.00
- **Connection fee – plumbing:** \$75.00
- **Connection fee – mechanical:** \$75.00
- **Manufactured home installation:** \$275.00 (does not include foundation)
- **Site work for manufactured, prefab, or moved in home (foundation, basement, etc.):** based on valuation
- **Pre-fabricated SFD, "base permit only" -** \$275.00 plus state surcharge, Pre-fabricated SFD foundation is based on Valuation for permit, plan review and state surcharge

City of St. Charles

BUILDING CODE FEE SCHEDULE

State Surcharge Fees

State Surcharge: Schedule is based on the currently adopted State Surcharge Table – per MN Statute 326B

State Surcharge is applicable on all permits unless otherwise noted.

Other Inspections and Fees

1.	Re-inspection Fee - A re-inspection fee may be assessed for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. On valuation-based building permits, this fee is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of the code, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection. Re-inspection fees shall also be assessed when 1) the address of the jobsite is not posted, 2) the inspection record card is not posted or provided at the worksite, 3) the approved plans are not readily available for the inspector, 4) full access to the site is not provided for the inspector, 5) the inspector is not met by the responsible individual (no show), 6) on residential (IRC) maintenance permits where corrections are required to be inspected, and 7) deviations from the approved plans occur without prior building official approval. Re-inspection fees are due on or before the re-inspection. Payment made payable to the Municipality:	\$60.00
2.	Inspections outside of normal business hours (will include travel time both ways – 2 hour minimum):	\$95.00/hr
3.	Inspections for which no fee is indicated, Miscellaneous and Special Services (1/2 hour minimum):	\$95.00/hr
4.	Additional Plan Review required by changes, additions, or revisions to approved plans (½ hour minimum)	\$95.00/hr
5.	Special Investigation fee (work started without obtaining a permit) – this fee is due whether or not a permit is ultimately issued.	100% of permit fee
6.	Copy charge (black/white 8 ½ x 11 and 8 ½ x 14)	\$.25
7.	Copy charge (black/white 11 x 17)	\$.50
8.	Copy charge (color 8 ½ x 11 and 8 ½ x 14)	\$1.00
9.	Copy charge (color 11 x 17)	\$2.00
10.	Print or copy charge (large plan sheet)	\$4.00
11.	Duplicate permit card fee – short card (8 ½ x 7)	\$25.00
12.	Duplicate permit card fee – long card (8 ½ x 14)	\$35.00
13.	License Look-Up (contractor license verification)	\$5.00
14.	Lead Certification verification (for eligible construction)	\$5.00
15.	Permit Renewal within 6 mos. of expiration (no plan changes, no code changes, new permit number)	½ the original permit fee
16.	Change of Use with no other permits issued	\$100.00
17.	Pre-Final inspection (new home or structure)	\$75.00
19.	Refunds:	
	Plan review (if plan review has not started)	100%
	Plan review (if plan review has started)	0%
	Permit fee (if work not started) within 6 months of permit issuance by municipality	60%
	Permit fee (if plan review is complete, but permit is not issued)	80%
	Maintenance Permits	0%