

**PROPOSED AGENDA
CITY COUNCIL REGULAR MEETING
CITY HALL
23 SECOND STREET NORTHEAST
WATERTOWN, SOUTH DAKOTA**

Monday, August 1st, 2016

7:00 PM

Call to Order

Prayer

Pledge of Allegiance

Roll Call

1. Approval of consent agenda
 - a. Approval of the minutes of the Council meeting held on July 18, 2016
 - b. Authorization to write-off uncollectible ambulance accounts receivable in the amount of \$13,627.88
 - c. Authorization to write-off uncollectible accounts receivable in the amount of \$2,598.96
 - d. Authorization for the Police Department to apply for a Homeland Security Grant to replace equipment in the amount of \$18,031.88 with no city match
 - e. Approval of bills & payroll and authorization to pay
2. Approval of agenda
3. Application for a transfer of location of a retail (on-off sale) malt beverage license for M & M Foxy's Inc., d/b/a Foxy's at 137 5th St. NE
 - a. Public hearing
 - b. Council action
4. Vacation of an alley adjacent to Lots 2 and 19, and the Northern Halves of Lots 3 and 18 within Lake View Addition, Block 2 as petitioned by Prairie Lakes HealthCare System
 - a. Public hearing
 - b. Council action
5. Proposed lease agreement with Chris Hanten for Lots 1 and 9 in the Hanten Industrial Park
 - a. Public hearing
 - b. Council action
6. First reading of Ordinance No. 16-12 amending Section 21.0202 of Title 21 regarding zoning for the City of Watertown
7. Consideration of contingency transfer to the Police Department to replace a heat pump in the amount of \$20,000
8. Authorization for the Mayor to sign Truancy Agreement with the Watertown School District for the 2016-2017 school year
9. Authorization for the Mayor to sign a professional services contract with Aquatic Design Solutions (ADS) for design services on the Splash Park Project in the amount of \$12,500
10. Authorization for the Mayor to sign an Airline Transportation System Lease Agreement with Aerodynamics, Inc.

11. Consideration of Change Order No. 1 to the contract with Koehl Excavating LLC for the 2016 Street Improvement Project increasing the contract amount \$2,712.50
12. Old Business
13. New Business
14. Liaison member reports
15. Executive Session pursuant to SDCL 1-25-2
16. Motion to adjourn

Rochelle M. Ebbers, CPA

Finance Officer

The City of Watertown, South Dakota does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

ADA Compliance: The City of Watertown fully subscribes to the provisions of the Americans with Disabilities Act. If you desire to attend this public meeting and are in need of special accommodations, please notify the City Finance Office 24 hours prior to the meeting so that appropriate auxiliary aids and services are available.

**OFFICIAL PROCEEDINGS
CITY COUNCIL, CITY OF
WATERTOWN, SOUTH DAKOTA**

July 18, 2016

The City Council met in regular session at 7:00 PM in the Council Chambers, City Hall, 23 2nd Street NE. Mayor Steve Thorson presiding. Present upon roll call: Aldermen Solum, Danforth, Roby, Thorson, Buhler, Tupper, Vilhauer, Albertsen and Alderwoman Mantey. Absent was Alderman Rieffenberger.

Motion by Buhler, seconded by Mantey, to approve the following item on the consent agenda: minutes of the Council Meeting held on July 5, 2016 and approval for business license to Rose City Canopy and Sign as a Sign Installer (\$250). Motion carried.

Motion by Tupper, seconded by Vilhauer, to approve the agenda as presented. Motion carried.

Motion by Mantey, seconded by Solum, to approve the Council Committee Assignments. Motion carried.

Motion by Albertsen, seconded by Mantey, to approve the appointments to fill vacancies on City Boards and Commissions. Motion carried.

Ordinance No. 16-08 amending Section 3.0101, 3.0109, 3.0110 and 3.0112 of Title 3 regarding Animals, Poultry, Etc. of the Revised Ordinances of the City of Watertown was placed on its second reading and the title was read. Motion by Danforth, seconded by Vilhauer, to approve Ordinance No. 16-08 as presented. Motion carried.

Motion by Tupper, seconded by Mantey, approving the insurance policies and authorization to pay the premiums for general liability, public officials liability, auto liability and physical damage, law enforcement liability, buildings and contents, equipment property damage, and equipment breakdown (boiler and machinery) coverage in the amount of \$271,593.32. Motion carried.

Motion by Albertsen, seconded by Tupper, authorizing the Mayor to sign a contract for professional services with RS Architects to design the Ice Complex with the contingency that Steven's Engineering is a consultant. Motion carried with Roby opposed.

Motion by Buhler, seconded by Roby, to approve Change Order No. 1 to the contract with Bates Construction Company Inc. for the Amdahl Wetland Complex project increasing the contract amount by \$4,690. Motion carried.

Motion by Buhler, seconded by Tupper, to go into executive session for the purpose of discussing personnel issues. Motion carried.

Motion by Solum, seconded by Roby, to reconvene in open session. Motion carried.

Motion by Mantey, seconded by Danforth, to deny a request for a sick leave bank. Motion carried.

Motion by Vilhauer, seconded Buhler, to adjourn until 7:00 PM on Monday, August 1, 2016. Motion carried.

The City of Watertown, South Dakota does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in employment or the provision of service.

Dated at Watertown, South Dakota, the 18th day of July, 2016.

ATTEST:

Rochelle Ebbers, CPA
Finance Officer

Steve Thorson
Mayor

**AMBULANCE MANAGEMENT
WRITE-OFFS / CREDIT BUREAU OR COURT
July 2016**

<u>Call No.</u>	<u>Amount</u>
33328	766.20
33409	670.25
33284	855.50
33346	2127.00
33142	110.75
33321	667.55
33325	680.00
33392	208.63
33158	686.75
33159	2135.00
33315	789.15
33337	781.05
33418	906.60
32834	798.90
33285	666.20
32888	778.35
	13627.88

Approved:

Mayor

Finance officer

Item #1c- Uncollectible Accounts

Finance Office Write Off Request

Customer Name	Total	Action	Service	Result
Dan's Excavation	1,860.56	Collections	Excavation Permits	Sent to collections
James Meyer	39.00	Collections	BS - WRTP	Sent to collections
McKeever Vending	39.00	Collections	Vending Lease	Sent to collections
McKeever Vending	110.40	Collections	Vending Lease	Sent to collections
Jim Pallesen	500.00	Write Off	Fire Protection	Write off per Mayor request
Natalie Nelson	50.00	Credit Memo	Fire Protection	Invoice paid in full
	<u>2,598.96</u>			

Request for City Council Action

TO: Mayor and City Council
FROM: Finance Office
MEETING DATE: August 1, 2016
SUBJECT: Application for transfer of location of an on-off sale malt beverage license

Background: Foxy's already has ownership of the malt beverage license with video lottery. However, the legal description needs to be changed to allow for 10 machines to be set up attached to the malt beverage license and another three machines in the restaurant portion of the property attached to the retail liquor license. There can only be 10 machines attached to any alcoholic beverage license. The legal description defines the footprint the license can operate in along with the video lottery machines. A drawing has been attached to help better understand the lengthy legal description.

Council Action Requested: Motion to approve the transfer of the on-off sale malt beverage license.

Date Received _____
Date Issued _____

License No. RB-3189

Uniform Alcoholic Beverage License Application

Mail this copy to: Department of Revenue, Special Tax Division 445 East Capitol Ave Pierre, SD 57501-3100.

A. Owner Name and Address

M & M Foy's Inc.
137 5th St NE
Watertown, SD 57201-2708

Owner's Telephone #: 605 886-8510

B. Business Name and Address

Lic # RB-3189
Foy's
137 5th St NE
Watertown, SD 57201-2708

Business Telephone #: 605 880-6295

C. Indicate the class of license being applied for (submit separate application for each class of license).

- Retail (on-sale) Liquor
 - Retail (on-sale) Liquor - Restaurant
 - Retail (on-off sale) Wine
 - Package (off-sale) Liquor
 - Retail (on-off sale) Malt Beverage
 - Retail (on-off sale) Malt Beverage & SD Farm Wine
 - Package (off sale) Malt Beverage
 - Package (off sale) Malt Beverage & SD Farm Wine
 - Other (please classify) _____
- Transfer Fee \$150.00

Number of other Package Liquor Licenses held: 0

Number of other On-sale Liquor Licenses held: 1

Is this License in active use? Yes No

D. Legal description of licensed premise:

Refer to exhibit drawing

Have you ever been convicted of a felony? Yes No

Do you own or lease this property? (Check one)

E. State Sales Tax Number: 1011-1989-ST

F. Remember to obtain a Federal Alcohol Stamp, for help call TTB at 1-800-937-8864.

G. New license? Transfer? (\$150) Re-issuance?

H. CERTIFICATE: The undersigned applicant certifies under the penalties of perjury that all statements provided herein are true and correct; that the said applicant complies with all of the statutory requirements for the class of license being applied for and in addition agrees to permit agents of the Department of Revenue access to the licensed premises and records as provided in SDCL 35-2-2.1, and agrees this application shall constitute a contract between applicant and the State of South Dakota entitling the same or any peace officers to inspect the premises, books and records at any time for the purpose of enforcing the provisions of Title 35 SDCL, as amended.

Signed this 11 day of July Print Name: Roger J Meyer Signature: Roger J Meyer

I. Any Application required to be submitted to a local governing board must be signed in the presence of the city or county auditor, the town clerk or notary public. This applies to ALL applications EXCEPT the following: distillers, manufacturers, wholesalers, municipalities, airports, solicitors, dispensers, carriers, transportation companies, and farm wineries.

Place of business is located in a municipality? Yes No County: Codington

This application was subscribed and sworn to before me this 11th day of July 2016

Approving Officer's Telephone number 605 882-6203 Signature: D. Wade Payel

J. APPROVAL OF LOCAL GOVERNING BODY - Notice of hearing was published on July 16, 2016. Public hearing on the application was held August 1, 2016, not less than SEVEN (7) days after official publication. The governing body by majority vote recommends the approval and granting of this license and certifies that requirements as to location and suitability of premises and applicant have been reviewed and conform to the requirements of local and South Dakota law.

Application approved for Sunday on-sale operation? Yes No

Are real property taxes paid to date? Yes No

Ineligible for video lottery

Number of video lottery terminals on licensed premise: 10

Renewal - no public hearing held

Amount of fee collected with application \$ 690.00

Amount of fee retained \$ 615.00

Forwarded with application \$ 75.00

For Local Government Use

(Seal) _____
Mayor or Chairman
If disapproved, endorse reason thereon and return to applicant

Transferred (State Use)

From: _____

Sales tax approval _____ Date _____

STATE LIQUOR AUTHORITY: APPROVAL _____ REVIEW _____

**Company supplement information
(For corporate/partnership/LP/LLC applicants)**

If supplement unchanged from last year check this box and sign below.

Affidavit

State of South Dakota)

:ss

County of)

We, the undersigned, being first duly sworn upon oath, supply the following information:

Name of corporation/partnership/LP/LLC _____

Address of office and principal place of business of corporation/partnership/LP/LLC _____

Date of incorporation _____

Date of last report filed with Secretary of State _____

Are all managing officers of this corporation/partnership/LP/LLC of good moral character? _____

Have any of the managing officers of this corporation/partnership/LP/LLC ever been convicted of a felony? _____

Name, title of office, occupation and address of each of the officers/owners of the corporation, partnership, LP or LLC:

Name	Office	Address	Occupation
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_____	_____	_____	_____
_____	_____	_____	_____

Name, address and occupation of each of the directors of the corporation:

Name	Address	Occupation
------	---------	------------

_____	_____	_____
_____	_____	_____

Name and address of each of the stockholders and percentage of shares owned or held by each:

Name	Address	Percentage of Shares
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_____	_____	_____
_____	_____	_____

Name of any officers, directors, partners or stockholders of applicant having a financial interest or capital stock in any other retail liquor outlet:

Name	Type of License, Financial Interest Held, and Address of Retail Outlet
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_____	_____
_____	_____

Where and with whom are all company records kept, such as charter, by-laws, minutes, accounts, notes payable, and notes and accounts receivable, etc?

With signature the applicant agrees to the following:

That the applicant company will comply with all provisions of ARSD chapter No. 64:75:02 of the Department of Revenue, relating to the transfer of stock and prior approval of the transfer of such stock by the Secretary of Revenue and violation of any of the provisions of said regulation or failure to comply therewith, whether by the undersigned corporation, partnership/LP/LLC or by any stockholder thereof, or by anyone interested in said company, shall constitute cause for revocation or suspension of any license issued pursuant to and in reliance on this application, or for refusal to renew such license upon expiration thereof.

We the undersigned officers and directors of the applicant company acknowledge that the within supplement application form is true and correct in every respect and that there exists no financial arrangement concerning this or any other alcoholic beverage license than that expressly set forth above. If company stock is to be transferred we ask for approval of such voluntary stock transfer.

Signature of Authorized Officer/Director/Partner _____ *Roger J Meyer*

Subscribed and sworn to before me this 11 of July, Codington County, State of South Dakota.

My commission expires 11-09-2018

D. Wade Pengilly

(Notary Public)

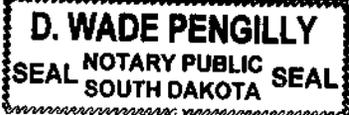
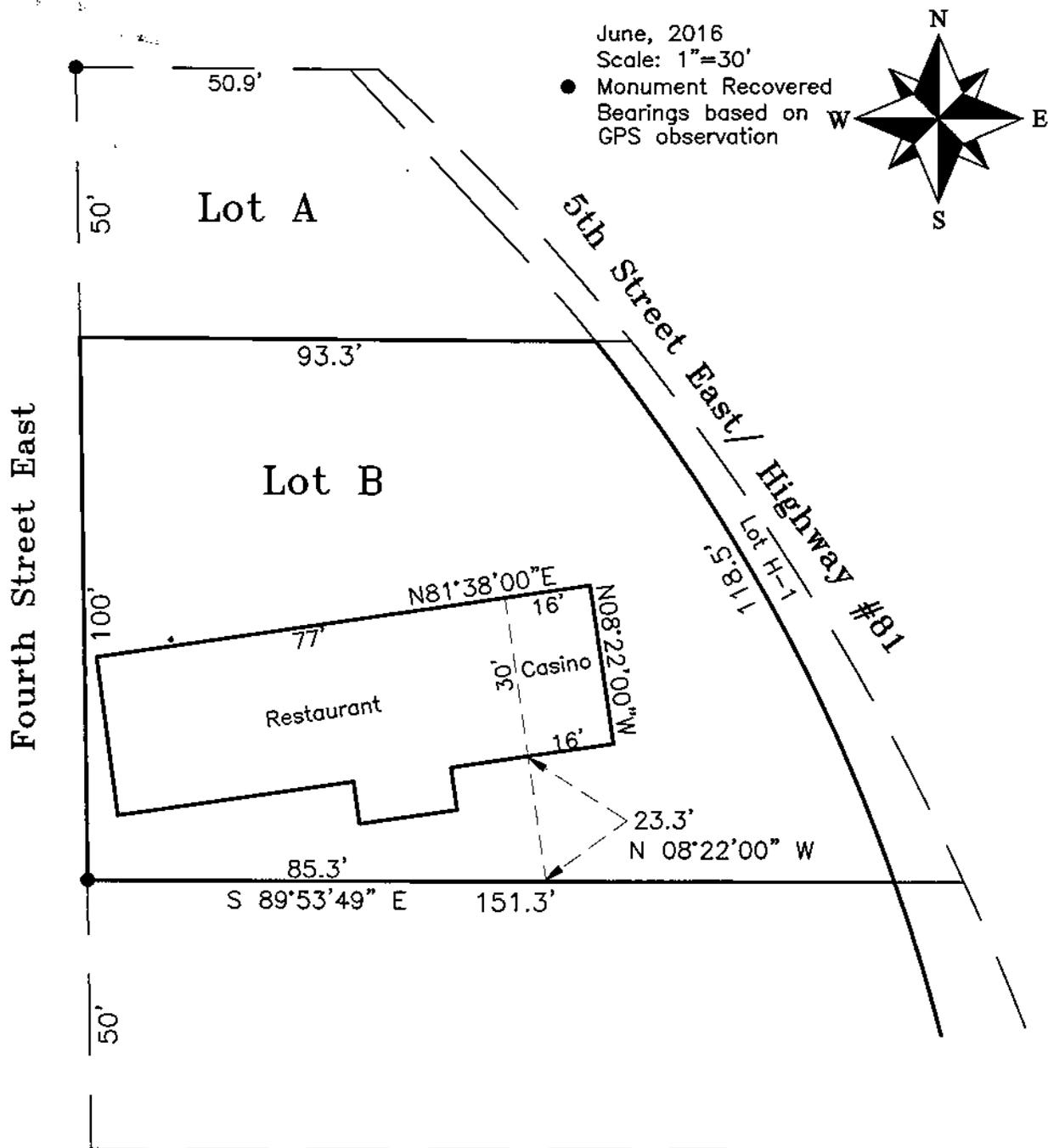
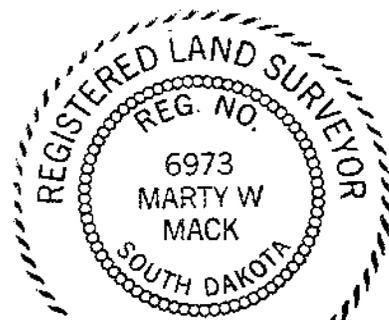


Exhibit Drawing

Beginning at the Southwest Corner of Lot B of Haggar's Subdivision, S89°53'49"E a distance of 84.7', thence N8°22'00"W distance of 23.2' to the Southwest Corner of Foxy's Casino, thence N8°22'00"W a distance of 30' to the Northwest Corner of Casino, thence N81°38'00"E a distance of 16' to the Northeast Corner of Casino, thence S8°22'00"E a distance of 30' to the Southeast Corner of Casino, thence S81°38'00"W a distance of 16' to the Southwest Corner of Foxy's Casino, of the plat entitled: "Lots A, B and C of Haggar's Subdivision in Block 20, R.F. Pettigrews Addition to Watertown, S. Dak, Formerly Lots 1, 2 and 3 Block 20, R.F. Pettigrews Add. to Watertown, S. Dak." Less Lot H-1 Haggar's Subdivision.



Foxy's Casino
137 5th Street NE
Watertown, SD 57201



Marty W. Mack
Registered Land Surveyor

MACK
Land Surveying, LLC

Marty Mack
Registered Land Surveyor
Certified Public Surveyor

Cell: (605) 889-3108 • Phone: (605) 878-2007
322 30th St. NW • Watertown, SD 57201
mackls@midco.net



Request for City Council Action

TO: City Council
THROUGH: Shane Waterman, City Engineer
FROM: Brandi Hanten, Urban Planner
MEETING DATE: August 1, 2016
SUBJECT: Vacation of Alley within Lake View Addition, Block 2

Petitioner: Prairie Lakes Healthcare System, owner of all adjacent land

Background: Petitioner requests that the public right-of-way adjacent to Lots 2 and 19, and the northern halves of Lots 3 and 18 within Lake View Addition, Block 2 be vacated. The petitioner is submitting the petition because the lots on both sides of the alley described herein will soon be joined under common ownership.

Facts:

- The alley is approximately 75 feet long and approximately 20 feet wide.
- All Adjacent landowners have signed the petition
- Purchase agreement is said to be finalized in August 2016 and Prairie Lakes Healthcare System will receive deed.
- Prairie Lakes Healthcare System will own all adjacent properties on alley from 9th Ave NW to 7th Ave NW

Recommendation: The Plan Commission recommended approving the vacation request.

Action: City Council Action on Alley Vacation in Lake View Add., Block 2

History: 06/30/16 Petition Received
07/21/16 Plan Commission Public Hearing

Future: 08/01/16 City Council Public Hearing and Action
08/06/16 Published – *if Approved*
08/26/16 Effective

Prepared by:

Brad Roath

HGA

420 North 5th Street, Suite 100

Minneapolis, MN 55401-2338

612-758-4570

**PETITION FOR VACATION OF AN ALLEY ADJACENT TO LOTS 2, 19, AND THE
NORTHERN HALVES OF LOTS 3 AND 18.**

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
WATERTOWN, CODINGTON COUNTY, SOUTH DAKOTA:

The undersigned, being the owner of all but one parcel of the real property abutting an alley hereinafter described, and having a signed purchase agreement to take ownership of the last remaining abutting parcel, hereby petitions the City Council of Watertown, South Dakota, to vacate said alley pursuant to the statutes in such cases made and provided, particularly SDCL 9-45-7, et seq., and said Petitioner respectfully shows and represents the following:

1. The alley sought to be vacated is described as follows:

ALLEY ADJACENT TO LOTS 2 AND 19, AND THE NORTHERN HALVES OF LOTS 3
AND 18 WITHIN LAKE VIEW ADDITION, BLOCK 2 AS RECORDED IN CODINGTON
COUNTY, SOUTH DAKOTA PLAT BOOK AP, PAGES 104 AND 105.

2. A figure depicting the alley proposed to be vacated is attached hereto and marked as Exhibit "A" and incorporated herein by reference.
4. Pursuant to SDCL 9-45-7, this petition is being submitted because the lots on both sides of the alley described herein will soon be joined under common ownership.

WHEREFORE, Petitioner respectfully requests that the governing body of the City of Watertown, South Dakota, order this Petition filed with the City Finance office and direct that notice of the time and place when the Petition will be considered be given by publication once each week for two successive weeks, with the final publication being a minimum of 10 days prior to the public hearing; and, that upon said hearing the governing body adopt a resolution vacating said alley, all according to the law in such cases being provided, and particularly under SDCL 9-45-7, et seq.

Dated at Watertown, South Dakota, this 19 day of July, 2016

By Not Present for Notary _____
Prairie Lakes Healthcare System representative (printed name)

By David R. Haggan _____
Property owner of 817 3rd St NW (printed name) DAVID R. HAGGAR

State of South Dakota)
)SS:
County of ~~Codington~~ Lincoln ²²

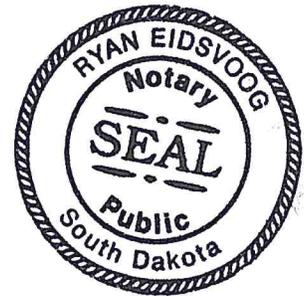
On this the 19 day of July, 2016, before me, the undersigned officer, personally appeared the petitioners known to me or satisfactorily proven to be the people whose names are subscribed to within this instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

[Signature]

Notary Public

(SEAL)



My Commission Expires: 08/25/2021

By Jill Fuller _____

Jill Fuller _____

Amanda Johannsen

Notary Public

(Seal)



Expires: 4-27-2018

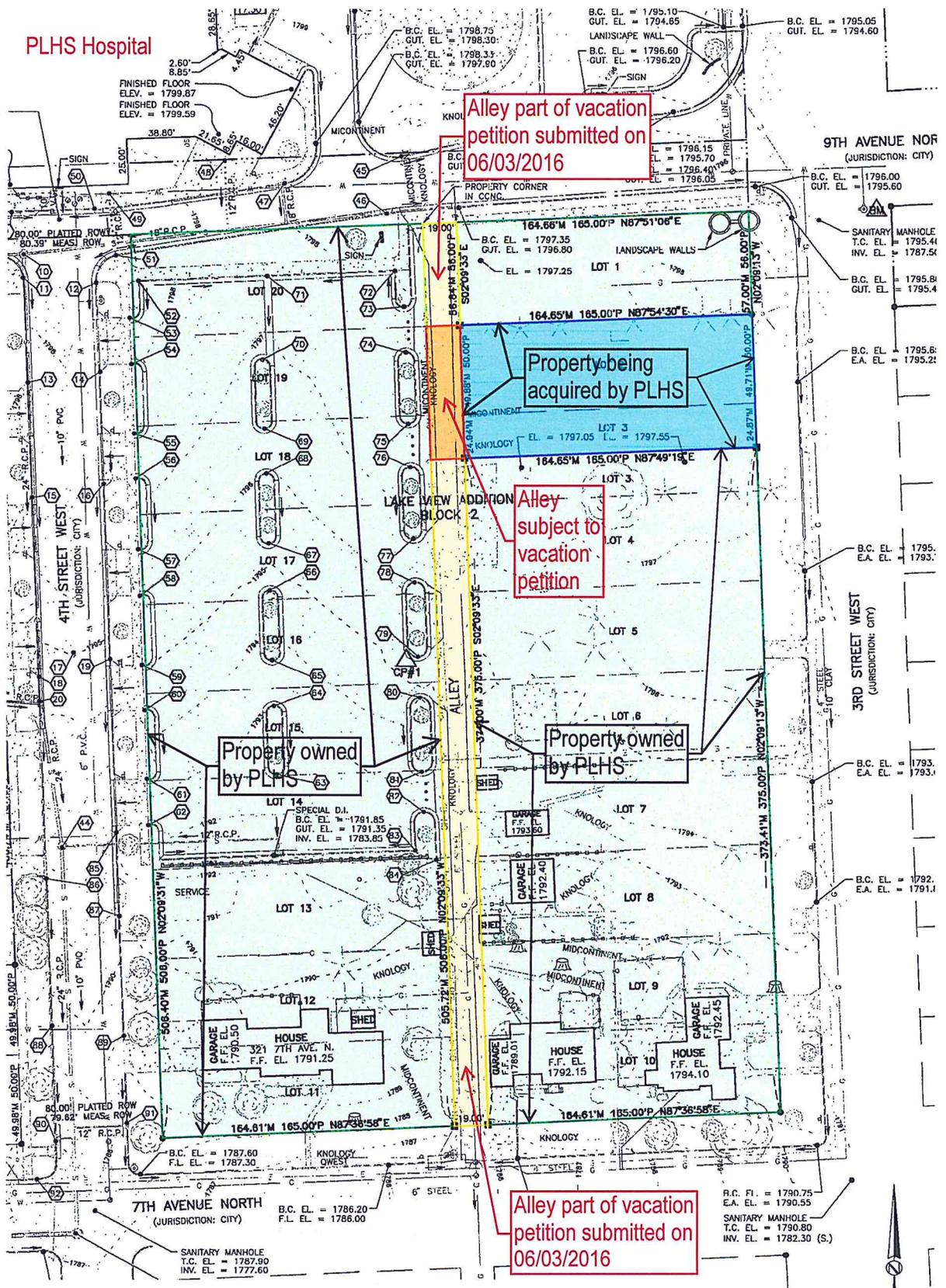
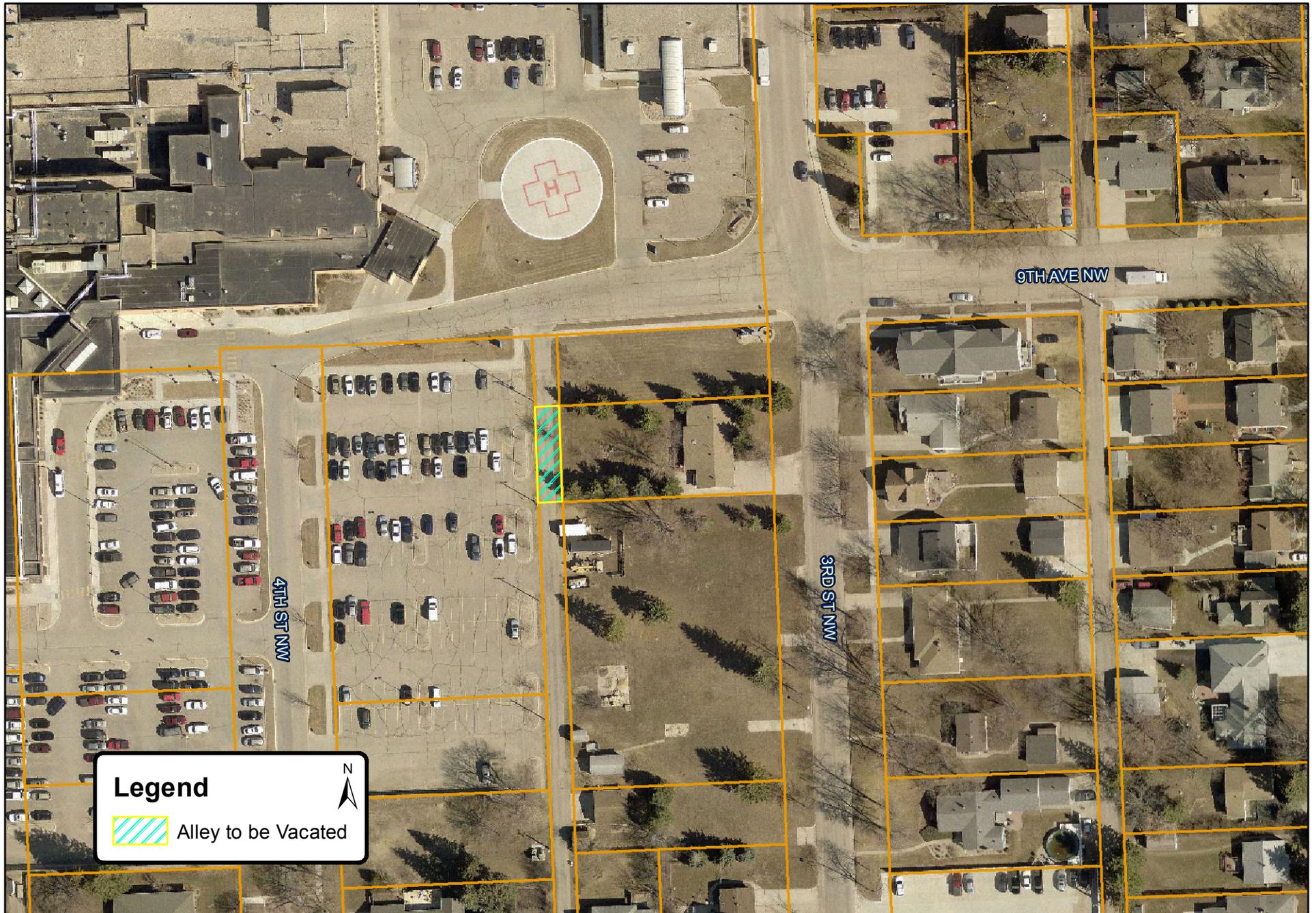


Exhibit "A"
 July 1, 2016
 Background from 2010 site survey by Aason Engineering Company entitled:
 Existing Site Plan of Prairie Lakes Healthcare System, Watertown, SD (dated 5/17/10)

Vacation of Portion of Alley Block 2 Lake View Addition



Prepared by:
Engineering Department
City of Watertown
23 Second Street NE
P.O. Box 910
Watertown, SD 57201
(605) 882-6201

RESOLUTION 16-25

A Resolution Vacating a Public Right of Way Adjacent to Lots 2, 19, and the Northern Halves of Lots 3 and 18

WHEREAS, Petition for Vacation of Public Right of Way, has been presented to the City Council of the City of Watertown, South Dakota. Said alley petitioned for vacation is described as:

Alley adjacent to Lots 2 and 19, and the Northern Halves of Lots 3 and 18 within Lake View Addition, Block 2 as recorded in Codington County, South Dakota Plat Book AP, Pages 104 and 105

WHEREAS, Jill Fuller of Prairie Lakes Healthcare and David Haggar, the owners of all real property abutting the described Public Right of Way, have signed the Petition for Vacation of Public Right of Way indicating that they have reviewed the Petition and consent to the vacation of Public Right of Way described in the Petition;

WHEREAS, the City Plan Commission of the City of Watertown, South Dakota, has by Resolution 2016-23, approved of said vacation, recommending to the City Council approval thereof;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Watertown, South Dakota, that the Public Right of Way described in the Petition be, and is hereby, declared vacated, as recommended by the City Plan Commission.

AND BE IT FURTHER RESOLVED that this Resolution shall be published, and upon taking effect, the Finance Officer is authorized to note the vacation on the City records and record this Resolution with the office of the Register of Deeds of Codington County.

Dated at Watertown, South Dakota, this ____ day of _____, 2016.

The above and foregoing Resolution was moved for adoption by Alderperson _____, seconded by Alderperson _____, and upon voice vote motion carried, whereupon the Mayor declared the resolution to be duly passed and adopted.

I hereby certify that Resolution 16-25 was published in the Watertown Public Opinion, the official newspaper of said City, on the ____ day of _____, 2016

Rochelle M. Ebbers, CPA

City of Watertown

Attest:

Rochelle M. Ebbers, CPA
Finance Officer

Steve Thorson
Mayor

--DRAFT--

--DRAFT--

--DRAFT--

LEASE AGREEMENT

This Lease Agreement is made and entered into this ___ day of August 2016, by and between Chris Hanten (hereinafter "LESSEE"), and the City of Watertown (hereinafter "LESSOR").

1. **Leased Premises.**

LESSOR hereby leases to LESSEE the following real property:

Lot 1 and that portion of Lot 9 not occupied by the southern connector project, and exclusive of road right-of-way, within the Hanten Industrial Park Addition to the Municipality of Watertown, Codington County, South Dakota

which property is more fully depicted on Exhibit A, attached hereto and incorporated by reference.

2. **Term.**

The term of this Lease Agreement shall be for the 2016 crop year. Each party shall have the right hereunder to terminate this Lease Agreement, with or without cause, upon written notice to the other. It is further agreed and understood that LESSEE shall have the right to request renewal of this Lease Agreement for subsequent crop years, under the terms and conditions as contained herein. Any request for such renewal must be made, in writing, by LESSEE to LESSOR no less than thirty (30) days prior to expiration of any lease term. LESSOR reserves the right to deny any request for renewal without any cause being given therefore.

3. **Rent.**

As consideration for this Agreement, LESSEE shall share with LESSOR thirty-three percent (33%) of the hay/crop/forage production harvested by LESSEE from the above-described, leased premises during the term of this Lease Agreement. Said share shall be in the form of one out of every three bales harvested by LESSEE under this Lease Agreement. LESSEE shall deliver the LESSOR-shared bales to the following entity and physical address:

Bramble Park Zoo
800 10th Street NW
Watertown, SD 57201-8806

4. **Obligations of LESSOR.**

- A. LESSOR warrants that it has good and clear title to the leased premises and has authority to lease said premises to LESSEE for the purposes described herein.

- B. LESSOR warrants that LESSEE shall, during the term of this Lease Agreement, have the right of quiet enjoyment in the leased premises.
- C. It is expressly agreed and understood by the parties that during the term of this lease, LESSOR shall retain the right to grant or convey the leased premises, which conveyance may result in the termination of LESSEE's use and enjoyment the leased premises.

5. Obligations of LESSEE.

- A. LESSEE agrees to observe and obey customary farming practices upon the subject property, including but not limited to those related to crop rotation, tilling, cultivation and harvesting, throughout the term of this Lease Agreement.
- B. LESSEE agrees, at his sole expense, to comply with all rules, regulations, ordinances, or statutes promulgated by the federal, state or county governments relating to, but not limited to, use of chemicals or fertilizers, and weed abatement and control. LESSEE hereby agrees that weed abatement and control over and upon the entire leased premises shall be its sole responsibility.
- C. LESSEE agrees that at no time during the term of this Lease Agreement will it permit any person, company, entity or organization to, in any manner, place or file against the leased premises any lien or encumbrance.
- D. LESSEE agrees that at all times during the period of this Lease Agreement, LESSOR, its agents and contractors, shall have the right to enter upon the leased premises for the limited and exclusive purpose of conducting surveys, soil analysis, site analysis and hydrological analysis. LESSOR agrees to provide LESSEE notice prior to entering upon the real property for the purposes described herein.
- E. LESSEE agrees to allow the general public to access the leased premises for the purpose of training dogs when LESSEE is not harvesting.
- F. LESSEE agrees to remove all bales of hay, all unbaled hay and all equipment from the lease premises promptly, and to transport LESSOR's share of the bales as provided in § 3 above no later than 45 days after cutting or sooner if LESSOR requests.

6. Rights of LESSEE.

LESSEE may utilize the leasehold premises, during the period this Lease Agreement is in effect, for his exclusive use for farming purposes.

7. Indemnification.

LESSEE agrees to indemnify and hold LESSOR harmless, for any injury, whether to person or property, arising out of, or occurring as a result of, any activities conducted on the leased premises, whether to LESSEE personally, or any employee, agent, heir of assign of LESSEE, during the term of this Lease Agreement. It is specifically agreed and understood that this express provision cannot be amended or extinguished, in any manner, during the term of this Agreement, and is binding on the LESSEE's heirs and assigns.

8. Right of Termination.

Except as otherwise provided herein, this Lease Agreement may be terminated, without any penalty or further liability, upon written notice by LESSOR to LESSEE that the real property described herein has been conveyed, and a subsequent owner is entitled to possession thereof. LESSOR agrees that LESSEE shall be entitled to remain in possession of the leased premises until final conveyance to a third-party by the Watertown Development Company. LESSEE hereby agrees that upon receiving notice of termination, it will remove any and all crops from the above-described real property within ten (10) days after final conveyance by the Watertown Development Company to a third-party, and will thereafter surrender possession of the leased premises.

9. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered, or sent via certified mail, return receipt requested, to the following addresses:

If to LESSOR:

City of Watertown
23 2nd Street N.E.
P.O. Box 910
Watertown, SD 57201

If to LESSEE:

Chris Hanten
222 54th Street SW
Watertown, SD 57201

10. Assignment and Subletting.

LESSEE may not, in any manner, assign or sublet the leased premises, or any portion thereof.

11. Successors and Assigns.

This Lease Agreement shall run with the property, and shall be binding upon and

inure to the benefit of the parties, their respective successors, personal representatives and assigns.

12. Miscellaneous.

- A. This Lease Agreement constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease Amendment must be in writing and executed by both parties.
- B. This Lease Agreement shall be construed in accordance with the laws of the State of South Dakota.
- C. If any term of this Lease Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease Agreement, which shall continue in full force and effect. The parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.
- D. This Lease Agreement may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

LESSEE:

LESSOR:

Chris Hanten

Steve Thorson
Mayor

ATTEST:

Rochelle M. Ebbers, CPA
Finance Officer

(SEAL)

ORDINANCE NO. 16-12

**AN ORDINANCE AMENDING SECTION 21.0202 OF TITLE 21 ZONING
FOR THE CITY OF WATERTOWN**

BE IT ORDAINED by the City of Watertown that Section 21.0202 of the Revised Ordinances of the City of Watertown regulating zoning be amended as follows:

21.0202: BOARD OF ADJUSTMENT

1. **Establishment and Procedure.** The Board of Adjustment is hereby established, which shall consist of the entire membership of the Plan Commission whose appointment as such Board of Adjustment is provided for under SDCL §11-4-13, and all acts amendatory thereto. The Mayor, subject to the approval of the City Council, shall appoint two (2) alternates to the Board of Adjustment. If a member of the Board of Adjustment is unable to attend a meeting, the first alternate, or the second alternate, in turn, shall serve in the members place.

- a. **Proceedings of the Board of Adjustment.** The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or the chairman's designee, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be immediately filed in the office of the Finance Officer.

- b. **Meeting Attendance.** At least two-thirds (2/3) of the Board members shall constitute a quorum for the transaction of business. A member shall be deemed present at a meeting if, upon the taking of the roll, they appear in person or participate in the meeting telephonically or other electronic means approved by the membership. A quorum may be established by any combination of members present, in person, or participating telephonically or by other electronic means. (Ord 14-12; Add 04-11-14)
- c. **Hearings; Appeals; Notice.** Appeals to the Board of Adjustment concerning interpretation or administration of this ordinance may be taken by any person aggrieved by any decision of the Building Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days or such lesser period as may be provided by the rules of the Board, by filing with the Building Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Building Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give public notice in the official newspaper and not less than ten (10) days prior to such hearing, and provide written notice to the parties in interest by certified mail whose receipts must be filed with the Board at least five (5) days prior to such hearing, and decide the appeal within a reasonable time. At the hearing, any party may appear in person or by agent or attorney. The parties in interest must also be notified by first class mail sent at least five days before the Board of Adjustment meeting for the Board to be authorized to consider an appeal continued from a prior Board meeting. The foregoing requirement only applies when the Board of Adjustment does not announce, upon continuing an appeal, a date certain to which the appeal is continued.

- d. **Stay of Proceedings.** An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Building Official from whom the appeal is taken and on due cause shown.

2. Powers and Duties.

- a. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Official in the enforcement of this ordinance.
- b. Conditional Uses: Conditions Governing Applications; Procedures. To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this ordinance. A conditional use shall not be granted by the Board of Adjustment unless and until:
 - (1) A written application for a conditional use is submitted indicating the section of this ordinance under which the conditional use is sought and stating the grounds on which it is requested.
 - (2) ~~Public n~~Notice shall be given stating the time and place when and where such hearing shall be held, and a notice that all interested persons may appear and be heard. Such notice shall be by legal publication in the official newspaper no less than ten (10) days in advance of public ~~h~~earing.
 - (3) ~~The applicant for a conditional use~~Notice shall ~~notify also be given to~~ all adjacent land owners by certified mail of ~~his the applicant's~~ request for a conditional use. Land immediately across the street or road right-of-ways shall be considered adjacent. The ~~applicant's~~ certified letter shall give the details of ~~his the applicant's~~ request and the date and time of the Board of Adjustment meeting that will rule on ~~his the~~ application. At ~~or least five (5) days~~ before the time of the hearing, ~~the applicant shall present~~ the certified mail receipts ~~shall be filed with~~ the Board of Adjustment as proof of compliance. ~~The applicant shall reimburse the City for the cost of providing such notice.~~
 - (4) ~~Before the Board of Adjustment may consider any previously tabled application for conditional use or any application for conditional use otherwise continued from a prior Board meeting, notice shall be provided to the adjacent land owners by first class mail sent at least five days prior to the meeting on the tabled or continued application. The foregoing requirement only applies when the Board of Adjustment does not announce, upon a motion to table or otherwise continue an application for conditional use, a date certain to which the matter is continued or on which the matter will be taken off the table. The applicant shall reimburse the City for the cost of providing such notice.~~
 - (5) ~~The public hearing shall be held. Any party may appear in person, or by agent or attorney.~~
 - (6) ~~The Board of Adjustment shall make a finding that it is empowered under the section of this ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.~~
 - (7) ~~Before any conditional use shall be issued, the Board shall make written findings certifying compliance with the specific rules governing individual conditional uses and the satisfactory provision and arrangement has been made concerning the following, where applicable:~~
 - (a) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - (b) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district.
 - (c) Refuse and service areas, with particular reference to the items in (a) and (b) above,
 - (d) Utilities, with reference to locations, availability and compatibility.
 - (e) Screening and buffering with reference to type, dimensions and character.
 - (f) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic affect, and compatibility and harmony with properties in the district.
 - (g) Required yards and other open space.
 - (h) General compatibility with adjacent properties and other property in the district.
- c. **Variances:** Conditions Governing Applications; Procedures. To authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

- (1) Standards for Variances. In granting a variance, the board shall ascertain that the following criteria are met:
 - (a) Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography or siting), fully described in the finding of the Board, do not apply generally in the district.
 - (b) Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested.
 - (c) For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land;
 - (d) Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land;
 - (e) The granting of any variance is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.
- (2) Requirements for the Granting of a Variance. Before the board shall have the authority to grant a variance, the person seeking the variance has the burden of showing:
 - (a) That the granting of the building permit will not be contrary to the public interest;
 - (b) That the literal enforcement of this title will result in unnecessary hardship;
 - (c) That by granting the building permit contrary to the provisions of this title the spirit of this title will be observed;
 - (d) That by granting the permit, substantial justice will be done.
- (3) All applicants for a variance will submit a written request which shall demonstrate:
 - (a) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
 - (b) That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance.
 - (c) That the special conditions and circumstances do not result from the actions of the applicant.
 - (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures or buildings in the same district.

No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
- (4) ~~Public n~~Notice of public hearing shall be given as in Section 21.0202(2)(b)(2) (Ord 04-04; Rev 03-26-04)
- ~~(5) The applicant for a variance~~Notice shall ~~notify also be given to~~ all adjacent land owners by certified mail of ~~his~~the applicant's request for a variance. Land immediately across street or road right-of-way shall be considered adjacent. The ~~applicant's~~ certified letter shall give the details of ~~his~~the applicant's request and the date and time of the Board of Adjustment meeting that will rule on ~~the~~his application. At least five (5) days before the time of the hearing, the certified mail receipts shall be filed with the Board of Adjustment as proof of compliance. The applicant shall reimburse the City for the cost of providing such notice.~~The applicant shall present certified mail receipts to the Board of Adjustment as proof of compliance.~~
- ~~(5)~~
- (6) Before the Board of Adjustment may consider any previously tabled application for variance or any application for variance otherwise continued from a prior Board meeting, notice shall be provided to the adjacent land owners by first class mail sent at least five days prior to the meeting on the tabled or continued application. The foregoing requirement only applies when the Board of Adjustment does not announce, upon a motion to table or otherwise continue an application for variance, a date certain to which the matter is continued or on which the matter will be taken off the table. The applicant shall reimburse the City for the cost of providing such notice.
- (7) The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

(8) The Board of Adjustment shall make findings that the requirements of Section 21.0202(2)(c)(1) and (2), above have been met by the applicant for a variance. (Ord 04-04; Rev 03-26-04)

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with the ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 21.0210 of this ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

- d. Board has Powers of Building Official on Appeals; Reversing Decision of Building Official. In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken.
- e. The concurring vote of at least two-thirds (2/3) of the members of the Board shall be necessary to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to affect any variation in the application of this ordinance, or to reverse any order, requirement, decision or determination of the Building Official. (Ord 06-29; Rev 02-08-07)
- f. When granting a conditional use or variance, the Board of Adjustment may, as part of its official action, set an amount, not to exceed twenty five dollars (\$25) per day, to be charged in the event that the terms of the conditional use or variance are violated or the project not completed in the time set by the Board of Adjustment. (E-546-1)

The above and foregoing Ordinance was moved for adoption by Alderperson _____, seconded by Alderperson _____, and upon voice vote motion carried, whereupon the Mayor declared the Ordinance duly passed and adopted.

I certify that Ordinance 16-12 was published in the Watertown Public Opinion, the official newspaper of said City, on the ____ day of _____, 2016.

Rochelle M. Ebbers, CPA

First Reading: August 1st, 2016
Second Reading: _____, 2016
Published: _____, 2016
Effective: _____, 2016

City of Watertown

Attest:

Rochelle M. Ebbers, CPA
Finance Officer

Steve Thorson
Mayor



Alan Taecker, President



9 North Maple
Watertown, South Dakota 57201-3648
605 / 886-2457
FAX: 605 / 886-3141

Project: City of Watertown
Police Department
Watertown, SD

REVISED

Please accept the following as our quotation for the heat pump replacement project.

Material and labor replace the existing water to water heat pump unit with one new unit to match capacity of the existing heat pump. The existing hydronic and chilled water pumps will be re-used. Some modifications to the existing heating and chilled water piping at existing heat pump is included. Unit will be ordered with same voltage as existing. Included an allowance for computer programming for controls if required.

Materials and labor as described above for the amount of \$ 19,990.00. This price includes local and state use taxes and contractors excise tax. It includes an allowance of \$ 1,000.00 for electrical and \$ 1,000.00 for control wiring and programming.

This proposal is subject to written acceptance within 30 days of this date. There are no promises, agreements, or understandings not expressed herein. Any alteration or deviation from the above referenced specifications involving extra costs will become an extra charge over and above this quotation.

TERMS: 100% of all material furnished and labor expended each month is due upon receipt of monthly progress billing. Final payment is due upon completion of the project. Balances over 30 days old will be assessed a finance charge of 2% per month (24% per annum) plus rebilling charges.

Please acknowledge your acceptance by signing and returning one copy of this quotation.

Accepted by: _____ Date: _____

Respectfully submitted,

Michael Schulte

Michael J. Schulte
June 27, 2016

AGREEMENT FOR TRUANCY OFFICER SERVICES

This agreement is made this 11th day of July, 2016, between the Watertown School District 14-4, of Watertown, South Dakota, hereinafter referred to as "School District," and the City of Watertown, South Dakota, a municipal corporation, acting by and through its Police Department, hereinafter referred to as "Police Department."

RECITALS

1. School District is statutorily required to annually appoint and provide for remuneration for one or more truancy officers to enforce the State's compulsory attendance laws within the Watertown School District.
2. The School District desires to appoint the Watertown Police Department as truancy officers pursuant to South Dakota law, and Police Department agrees to provide said services.

AGREEMENTS

1. School District hereby appoints Police Department as its truancy officer(s) for the 2016-2017 school year. The services to be performed are those set forth in S.D.C.L. §13-27-14, *et seq* Police Department hereby accepts said appointment and agrees to perform all truancy officer services required by law.
2. Police Department agrees that it shall receive no remuneration for the performance of the truancy officer services during the term of this agreement.
3. The parties agree that Police Department shall be acting as an independent contractor by virtue of this agreement. Neither the Police Department nor any of its individual officers shall, at any time, be deemed employees of the School District. Neither the Police Department nor any of its individual officers shall, at any time receive, or be eligible to receive, any employment benefits from the School District. Any truancy officer furnished by Police Department pursuant to this agreement will remain a Police Department employee, and Police Department will exercise complete control over their conduct and performance, and will pay all wages, expenses, social security taxes, federal and state unemployment insurance and any similar taxes relating to the employees.
4. During the term of this agreement, Police Department will carry and maintain its usual and customary insurance coverage, evidence of which will be furnished to School District on written request. This insurance shall include worker's compensation insurance as required by the laws of the State or South Dakota, covering all persons employed by the Police Department, and general liability insurance coverage for personal injury and property damage. Liability insurance coverage must cover the risks as identified and covered by Police Department's general and special liability insurance coverage.
5. Police Department will indemnify the School District and hold it harmless from and against all and any losses or damages, whether to person or property, including reasonable attorney fees, which School District may sustain by reason of the conduct or performance of Police Department, its offices, agents and employees, while engaged in the services arising out of and within the scope of the performance of this agreement, other than those that arise out of the negligent acts or omissions of the School District or its personnel.

6. School District agrees to cooperate with Police Department in the performance of the School District's truancy obligations.

7. This agreement may not be altered, modified or amended except in writing properly executed by the parties.

8. This agreement represents the entire agreement between the parties, and no other agreements or representations exist, either written or oral, except those contained within this document.

Dated this 11th day of July, 2016.

WATERTOWN SCHOOL DISTRICT NO. 14-4

By  _____
School Board President

ATTEST:



BUSINESS MANAGER

CITY OF WATERTOWN

By _____
Mayor

ATTEST:

CITY FINANCE OFFICER

State of South Dakota)
)SS:
County of Codington)

On this the _____ day of July, 2016, before me, the undersigned officer, personally appeared Steve Thorson and Rochelle Ebbers, who acknowledged themselves to be the Mayor and Finance Officer, respectively, of the City of Watertown, a municipal corporation, and that they as such Mayor and Finance Officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the City of Watertown City by themselves as Mayor and Finance Officer.

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Public

(SEAL

My commission Expires:

State of South Dakota)
)SS:
County of Codington)

On this the 11th day of July 2016, before me, the undersigned officer, personally appeared Tom Linngren and Rick Hohn known to me or satisfactorily proven to be the persons whose name is subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF I hereunto set my hand and official seal.


Notary Public
HEIDI CLAUSEN
NOTARY PUBLIC
SOUTH DAKOTA
My Commission Expires: 4-2020

**AQUATIC DESIGN
SOLUTIONS, LLC**

17921 Fulda Trail, Lakeville, MN 55044
Phone: (952) 356-6047 Fax: (952) 378-2781

OWNER:

City of Watertown, SD

**PROPOSAL
ATTACHMENT #1 TO AIA C141 OR 142 AGREEMENTS**

**Watertown Splash Pad
Watertown, SD**

September 24, 2015
Revised October 6, 2015

Aquatics Consultation

PROJECT DESCRIPTION: The planning, design and implementation of the design for the Watertown splash pad. The splash pad will be its own facility. There will not be any new buildings for this project. It is understood that the filter/chemical systems will be located on a concrete slab with fencing. Splash pad will be located near existing rest room facilities.

The facilities will include the following elements:

A. Watertown Splash Pad

A.1 Splash Pad, including:

- .1 Splash pad concrete
- .2 Underground storage system and related piping
- .3 Play features and related piping
- .4 Recirculation system and related piping
- .5 Fencing

B. AQUATIC BUDGET: The aquatic budget is \$175,000.

C. PROJECT SCHEDULE:

- C.1 The aquatic schedule begins upon signed contracts. Project construction documents shall be completed by end of November with construction contracts in place by end of December. Construction contract is to begin January 2016 and be completed June 15, 2016.

Aquatic Design Solutions LLC, (hereinafter ADS) will work with the project team to define the specific aquatic needs of the facility.

TASK I: SCOPE OF SERVICES

1. SCHEMATIC DESIGN

A. Description of Services

- A.1 ADS will provide 3 conceptual/schematic designs based on site selected by Owner.

A.2 Aquatic Elements

- .1 Provide data, consultation, and design to the project team in defining aquatic areas as shown on the conceptual plan. They include: splash pad configurations, water activities, deck slides, safety evaluation, code compliance review, pad finishes, filtration equipment, pool heating systems, special disinfection and sanitizing equipment selections with the associated drawings, details and submittals.
- .2 Develop the interface of all electrical, mechanical, sewer and water requirements of the splash pad.
- .3 For all electrical, mechanical, gas, fresh water and sewer, work shall be designed with performance specification and contractor shall provide final design.
- .4 Participation and evaluation in the general layout of the aquatic facility, pool and amenity locations, decks and pool mechanical.
- .5 Prepare schematic plans and sections for the splash pad.
- .6 Schematic design of splash pad structural system. Proposal is based upon standard, non-expansive soils conditions and assumed bearing capacity of 2,500 PSF.

A.3 Building Elements

- .1 There shall not be any buildings for the splash pad.

2. DESIGN DEVELOPMENT

A. Description of Services

A.1 Aquatic Elements

- .1 Prepare design development drawings for the splashpad: plans, sections, filter pad and basic details.
- .2 Prepare outline specifications for the splash pad.
- .3 Prepare utility requirements list to coordinate the pool equipment items and their interface with owner services.

3. CONSTRUCTION DOCUMENTS

A. Description of Services

ADS will provide complete aquatic construction documents along with Specification Sections 131500 (swimming pools) sealed by a state licensed professional engineer or architect and submitted to the Department of Health for the construction permit, if required.

The drawings will be prepared on the ADS's title block and shall be suitable for securing competitive bids and required permits, and will include, but are not limited to, the following:

A.1 Splash Pad Location Plans

A.2 Splash Pad

- .1 Plan
 - Dimensions
 - Play features
 - Design data
- .2 Sections
 - Transverse section
 - Longitudinal section
 - Floor profile

A.3 Other Drawings and Details

- .1 Piping Plan
 - Splash pad plans with piping
 - Underground storage tank location and size
 - Filter pad and chemical pad plans

- Location of piping and sizes
- Location of inlets and outlets
- .2 Filter Pad Plan (enlarged)
 - Piping plans
 - Piping diagram (isometric or elevation views)
 - Filtration equipment
 - Chemical equipment
 - Recirculation equipment
 - Backwash and pool draining piping to sewer stubs (sewer stubs by others).
- .3 Details
 - Water feature details
 - Chemical controller and feed systems
 - Main drains and hydrostatic relief valve
 - Design and details of pool shells
- .4 Piping and Filter Room Details
 - Water level controller
 - Fill funnels
 - Water supply inlets
- .5 Specifications

Prepare specifications for Division 13, Section 131500 Swimming Pool.

B. Interface Items with Owner

ADS will interface with the Owner. Principally, published utility requirements and revisions to utility requirements will be forwarded to the Owner. Specific coordination issues proposed are as follows:

B.1 Mechanical (Plumbing and HVAC)

- .1 ADS will provide the following:
 - Make-up water flow requirements to Owner for potable water design/service by Owner.
 - Backwash flow to Owner for Owner's sewer plumbing design.
 - Recommend hose bibb locations around pool and filter area.
 - Provide Owner with heater size for Owner to provide gas to.
- .2 The Owner will provide the following:
 - Hose bibb and potable water plumbing design for splash pad.
 - Potable water plumbing design for all pool autofills.
 - Eyewash location, sections, specification and potable water plumbing, if desired by Owner.
 - Design of natural gas system to HVAC related equipment, including splash pad heater.

- Sewer design for disposal of filter backwash, splash pad drain and splash pad overflow. Design of sump pits/pumps and pumping systems, as required for sanitary and storm sewer disposal

B.2 Electrical

- .1 ADS will provide the following:
 - Discuss general security lighting approach.
 - Review power outlet locations for maintenance needs.
 - Provide pool equipment power requirements to Owner for service design.
 - Provide performance specification for electrical needs for splash pad. Work shall be performed by contractor.
- .2 The Owner will provide the following:
 - Electrical service to site for all electrical needs.

4. BIDDING AND NEGOTIATION

A. Description of Services

A.1 ADS will provide the following services during this phase:

- .1 Answer all aquatic questions during the bid phase.
- .2 Provide the proper and timely addenda as required.
- .3 Review all aquatic bids.
- .4 Prepare construction contracts.

5. CONSTRUCTION ADMINISTRATION SERVICES

A. Description of Services

A.1 ADS will furnish construction administration services, specifically:

- .1 Review of all aquatic shop drawings.
- .2 Assistance with contractor construction coordination problems.
- .3 Resolve Department of Health questions and comments during construction.
- .4 Participate in meetings with contractors and owner.

TERMS AND CONDITIONS

A. Fee for Professional Services

- A.1 The fee for professional services described in Task I above is established as a lump sum of \$12,500.00. Reimbursable expense shall be an added expense, see paragraph D below.
- A.2 This proposal will be referenced and attached to an AIA B141 Agreement form.
- A.3 ADS agrees to not submit a payment request for engineering services until FY 2016.

B. Site Visits/Meetings

- B.1 2 trips for schematic design/design development/construction documents.
- B.2 0 trips for bidding/negotiations
- B.3 3 trips for construction administration

Trips are interchangeable between tasks. Additional site visits shall be billed at \$1,000 plus reimbursables.

C. ADS's hourly rates are:

Project Manager	\$ 150.00
Project Designer	\$ 105.00
CAD Operator	\$ 75.00
Administrative	\$ 60.00

Additional meetings or tasks not included in the scope of services shall be reimbursed at our current hourly professional rates

D. Reimbursable Expenses

- D.1 Reimbursable expenses include mileage, internal office printing, deliveries, automobile and other expenses necessary for the assignment.
- D.2 Plan review fees shall be paid directly by the Owner or Contractor.

E. Project Billing

- E.1 ADS will invoice professional fees monthly on a percent complete basis throughout the project.
- E.2 The phase breakdown of fees shall be:

Schematic Design	15%
Design Development	25%
Construction Documents	40%
Bid/Negotiation	5%
Construction Administration	<u>15%</u>
 TOTAL	 100%

F. Additional Project Related Costs

F.1 The following costs are not included in our proposal and should be anticipated in the owner's budgeting.

- .1 Geotechnical services and reports
- .2 Topographic and boundary surveys
- .3 Testing
- .4 Project related insurance and legal services
- .5 Permits and fees

G. Project Requirements

G.1 The following information, records and electronic media will be provided to ADS at no cost:

- .1 AutoCAD files of site work for use in ADS drawings for coordination.
- .2 Copies of geotechnical investigations, surveys and programming information.
- .3 Complete set of plans and specifications.

If this proposal meets with your approval, please sign and return both documents to our office. Upon receipt of them, we will sign and forward one (1) document to you. This ensures that both your office and ours will have an original, fully executed document on file. Your acceptance will serve as our notice to proceed. ADS appreciates the opportunity to provide professional services to you for this project. If you have any questions regarding this proposal, please don't hesitate to call.

City of Watertown, SD

Aquatic Design Solutions, LLC

Jody A. Dahms, President

Date

Date

**WATERTOWN REGIONAL AIRPORT
AIRLINE TRANSPORTATION SYSTEM LEASE AGREEMENT
WITH AERODYNAMICS INC.**

THIS AGREEMENT is made and entered into this 1st day of **August, 2016**, by and between the **City of Watertown**, a South Dakota Municipal Corporation, with its principal place of business at 23 Second Street NE, Watertown, SD 57201 (“CITY”), and **Aerodynamics, Inc.**, a Michigan corporation, with its principal place of business at 114 Townpark Drive #500, Keenesaw, GA 30144 (“AIRLINE”).

WITNESSETH:

WHEREAS, Airline and its Affiliates, as defined in Article 6.05, are engaged in the business of air transportation with respect to persons, property, cargo, and mail; and

WHEREAS, the parties desire to enter into an Agreement and Lease for the use of certain premises and facilities at the Watertown Regional Airport;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, City and Airline do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

**ARTICLE 1
PUBLIC AIRCRAFT FACILITIES**

1.01 “PUBLIC AIRCRAFT FACILITIES” DEFINED:

As used herein, the phrase “Public Aircraft Facilities” shall mean (a) public runway; (b) public taxiways; (c) public passenger ramp and apron areas; (d) and extensions or additions to the above and other space or facilities provided by City at the Airport for public and common use by aircraft operators in operations hereinafter authorized to be performed by aircraft operators upon the aforesaid public runways, public taxiways and public passenger ramp and apron areas; but only as and to the extent that they are from time to time provided by City at the Airport for public and common use by aircraft operators.

1.02 USE OF PUBLIC AIRCRAFT FACILITIES:

The Airline and its Affiliates shall be entitled to use the Public Aircraft Facilities for the following purposes:

- (a) Public runways for the purpose of the landing and taking off of aircraft.
- (b) Public taxiways for the purpose of the ground movement of aircraft.
- (c) Public passenger ramp and apron areas for the purpose of unloading and loading passengers, baggage, freight, mail, supplies, and cargo to and from the aircraft, fueling and other ramp services as is more extensively defined in 1.04 for the purpose of parking mobile equipment while being actively used in connection with ramp operations.
- (d) Training operation of the Airlines.
- (e) Any other use normally incidental to the foregoing.

The use of the Public Aircraft Facilities shall be in common with others authorized by City to do so, upon compliance with the reasonable and non-discriminatory terms and conditions (including the payment of rates, fees and charges) upon which they are made available for such use, and in conformity with the rules and regulations prescribed by City with respect to the use thereof.

1.03 RATES AND CHARGES FOR THE USE OF PUBLIC AIRCRAFT FACILITIES:

The rates and charges for use of the Public Aircraft Facilities shall be computed on a basis of one thousand pounds of maximum allowable gross landing weight per landing of such aircraft used at the airport and based on the rates set forth below:

- (a) Thirty-Two Cents (\$0.32) per thousand pounds over twelve-thousand, five-hundred pounds; with a minimum of five dollars (\$5.00) per landing.
- (b) The term “maximum allowable gross landing weight” for any aircraft, as used herein, shall be the maximum landing weight approved by the Federal Aviation Administration for landing such aircraft at the Airport, and the carrier shall provide City such “approved maximum gross landing weight” for each aircraft it operates.
- (c) The carrier shall upon the tenth (10th) day of each month, furnish to the Airport Manager a detailed listing of the number of passengers enplaned and deplaned; non-revenue passengers enplaned and deplaned; pound weight of cargo incoming and outgoing; number of landings; and overnight stays during the previous month. Said listing shall show the number of landings by type of aircraft.

Landing fees for the previous month shall be payable no later than the 15th of the month.

1.04 RAMP SERVICES:

Airline will be permitted to provide or contract with others of its choice to provide ramp services for its own aircraft. Airline may contract with and provide such ramp service as herein defined for other Certified Air Carriers. Airline will be permitted to use the positions on the ramp for the purpose of loading and unloading aircraft and such positions will be at all times under the control of the Airport Manager. No services will be permitted by Airline to aircraft occupying such loading or unloading positions other than those services (herein called “ramp services”) incidental to the immediate preparation of aircraft for scheduled departure, such services to include, among others, fueling, inspection, interior cleaning and non-routine maintenance involving minor repairs and the replacement or adjustment of equipment of an emergency nature or in order to insure the safe departure of the aircraft. Ramp services may be provided at loading and unloading positions in accordance with the rules and regulations of the Airport Manager. Airline shall leave the ramp area used by it for any such purpose in a neat, clean, safe, and orderly condition upon completion of such services.

1.05 TERM OF USAGE

Airline shall have the right to use the Public Aircraft Facilities for a term continuing until twelve o'clock, C.S.T., on the 31st day of July, 2018, unless cancelled sooner or terminated as hereinafter provided.

**ARTICLE 2
PREMISES TO WHICH AIRLINE HAS EXCLUSIVE USE**

2.01 EXCLUSIVE USE SPACE

City leases to Airline the exclusive use of approximately 3,097 square feet of space in the Terminal Building as shown on Exhibit A attached hereto and incorporated by this reference. City also leases to Airline vehicular parking spots identified on Exhibit A as “Lessee Parking” consisting of approximately 2,931 square feet.



2.02 UTILITIES AND CLEANING EXPENSE ALLOCATION

City agrees to provide electricity, heat/air conditioning, water, and janitor service for the space in the Airport Terminal rented to Airline for its exclusive use. Foreign Object Debris (FOD) removal on the Airport Terminal Ramp is the responsibility of all personnel employed at the Airport, regardless of their employer. Removal of trash and/or FOD from the designated FOD Buckets on the Airport Terminal Ramp and trash from the Baggage Makeup Area shall be responsibility of Airline's Employees. Airline shall keep and maintain its leased premises as well as the fixtures and appurtenances thereto in a clean, orderly and slightly appearance, and maintain it in as good condition as when leased, normal wear and tear excepted. Airline shall be responsible for routine maintenance on such fixtures and appurtenances.

2.03 RATE FOR EXCLUSIVE USE AREAS

For the exclusive use of such space in the Airport Terminal, Airline shall pay to City a rental fee. Said rental shall be computed on the "per square foot (S.F.) annum" basis, payable in twelve (12) equal payments based on the rate of three dollars and seventy-eight cents (\$3.78) per sq. ft. per annum.

2.04 ADVERTISING SIGNS

No signs or advertising displays shall be painted or shall be constructed or installed without the prior written approval of the Airport Manager.

2.05 AMUSEMENT OR VENDING MACHINES

No amusement or vending machines of any kind shall be installed or maintained upon said leased premises, nor shall the sale of any food, beverages, or other products be permitted thereon without the consent of the Airport Manager.

2.06 DAMAGE TO PROPERTY

Airline agrees to repair at its own expense any damage to the exclusively leased premises which is caused by its officers, employees or agents or its operations in and on the exclusively leased premises.

2.07 PAYMENT OF RENT

The rental payment due under this Article is due and payable by the 15th day of each month similar to section 1.03 of this lease.

**ARTICLE 3
PROVISIONS RELATING TO SPACE IN AIRPORT TERMINAL
USED IN COMMON WITH OTHERS**

3.01 JOINT USE OF SPECIFIED AREAS

Airline, its employees and invitees, shall have the right to use in common with others and solely in connection with Airline's business, the baggage claim area, security area, lobby and other facilities in and adjacent to the Terminal Building.

3.02 UTILITIES PROVIDED BY LESSOR

City agrees, at its expense, to furnish heat, air conditioning, lights, water and janitor service for the public space used in common and to keep the public space in common areas in the Airport Terminal attractively furnished.



**ARTICLE 4
TERM OF LEASE**

4.01 TERM OF LEASE

This Agreement and Lease shall be effective beginning the 1st day of **August, 2016** until the 31st day of **July, 2018**, a term of two years, for Public Aircraft Facilities, Exclusive Use Space, and Joint Use of Specified Areas described herein at the Watertown Regional Airport Terminal Building.

**ARTICLE 5
FUEL FLOWAGE FEES**

5.01 FUEL FLOWAGE FEES

No charges, other than those herein expressly provided for, will be payable to City by Airline or any of its suppliers for the furnishing of the services provided herein to Airline by City, subject to a City Fuel Flowage Fee not to exceed \$0.04 per gallon. Such Fuel Flowage Fee will be paid directly to the Fixed Based Operator due and payable by the 15th day of each month similar to section 1.03 of this lease.

**ARTICLE 6
GENERAL PROVISIONS**

6.01 CITY'S RIGHT TO ENTER LEASED PREMISES

City and its authorized officers and employees and agents shall have the right to enter upon the exclusively leased premises for the purpose of making inspection at all reasonable times.

6.02 CITY NOT RESPONSIBLE FOR DAMAGE TO STORED PROPERTY

City shall have no responsibility for any loss or damage to any property of Airline stored on the Airport, nor shall City be responsible for any loss or damage to any property of Airline located in that portion of the premises under the exclusive control of Airline.

6.03 AGREEMENTS WITH THE UNITED STATES:

This Agreement and Lease is subject and subordinate to the provisions of any agreements between City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the transfer of Federal rights or property to City for airport purposes, or to the expenditures of Federal Funds for the extension, expansion, or development of the Airport in accordance with the provisions of the Airports and Airways Development Act of 1970, as it has been or may be amended from time to time; and

- (a) Airline, its agents and employees will not discriminate against any person or class or persons, by reason or race, color, creed or national origin in providing any services or in the use of any of its facilities provided for the public, in any manner prohibited by Part 15 of the Federal Aviation Regulations. Airline further agrees to comply with such enforcement procedures as the United States might demand that City take in order to comply with the Sponsor's Assurances.
- (b) It is clearly understood by Airline that no right or privilege has been granted which would operate to prevent any person, firm, or corporation operating aircraft on the airport from performing any service, maintenance, and repair on its own aircraft with its own regular employees that it may choose to perform.
- (c) It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right.



- (d) Airline assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR, Part 152, Subpart E. Airline assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Airline assures that it will require that its covered sub-organizations provide assurances to Airline that they similarly will undertake affirmative action programs and that will require assurances from their sub-organizations, as required by 14 CFR, Part 152, Subpart E, to the same effect.

6.04 ASSIGNMENT AND SUBLETTING:

Airline shall not assign or transfer this Agreement and Lease, in whole or in part, or any right or leasehold interest or interests granted to it by this Agreement and Lease, or sublet or otherwise transfer any interest in or to the premises, without the prior written consent of City (which consent will not be unreasonable withheld), however, Airline shall have the right to request the assignment of all or any part of its rights and interests under this Agreement to any affiliated air transportation company, or any successor to its business through merger, consolidation, voluntary sale, or transfer of substantially all of its assets, and the consent of City thereto shall not be unreasonably withheld. Written notice of any such proposed assignment shall be given to City who shall inform Airline, in writing, of its decision on such assignment within forty-five (45) days of receipt.

6.05 AFFILIATE DESIGNATION

For purposes of this lease, Affiliate is defined as any air transportation company that is (i) a parent or subsidiary of Airline or a corporation that share the same parent as Airline; or (ii) shares an International Air Transportation Association (IATA) flight designator code with Airline; or (iii) otherwise operates under essentially the same trade name as Airline at the Airport and uses essentially the same livery as Airline; provided that no major airline, as such term is defined by the FAA, shall be classified as an Affiliate of another major airline, unless either clause (i) or (iii) above defines the relationship between such airlines at the Airport.

6.06 ACTS BEYOND PARTIES CONTROL

Neither City nor Airline shall be deemed to be in breach of this Agreement and Lease by reason of failure to perform any of its obligations hereunder if, while and to the extent that such failure is due to embargoes, shortages of materials, acts of God, acts of the public enemy, acts of superior governmental authority, sabotage, strikes, boycotts, labor disputes, weather conditions, riots, rebellion, and any circumstances for which it is not responsible and which are not within its reasonable control. This provision shall not apply to failures by Airline to pay rents, fees, or other charges, or to make any other money payments whatsoever, required by this Agreement and Lease, except in those cases where provision is made in this Agreement and Lease for the abatement of such rents, fees, charges or payments under such circumstances. This provision shall not prevent either party from exercising its rights of termination herein granted.

6.07 INDEMNIFICATION:

Airline shall keep and hold City herein, including the City Council and the City's officers, agents, servants and employees, harmless from any and all costs, liability, damage or expense (including costs of suit and reasonable expenses of legal services) claimed by anyone by reason of injury or death of persons or damage to persons or property sustained in, on or about the demised premises as a proximate result of the acts or omissions of Airline, its agents, servants, or employees, or arising out of any conditions occasioned by the acts or omissions of Airline in its demised premises, or arising out of the operations of Airline upon or about the demised premises, excepting such liability as may be the result of the direct and proximate negligence, acts or omissions of City or its officers, agents, servants or employees while acting in the scope of their official duties, agency or employment; provided, however, that upon the filing of any claim with City for damages arising out of incidents for which Airline herein agrees to hold City harmless, Airline shall have the right to settle, compromise or defend the same. Any final judgment rendered against City for any cause for which Airline is liable hereunder shall be conclusive against Airline as to liability and amount, where the time for appeal therefrom has expired.

No provision within this Agreement shall be construed to create any agency or trustee relationship.

6.08 INSURANCE PROVIDED BY AIRLINE

Airline, at its own expense, shall keep in force insurance of the following types and in not less than the following amounts, issued by a company or companies of sound and adequate financial responsibility, insuring Airline and City against all liabilities for accidents arising out of or in connection with Airline's use and occupancy of and operations at the Airport, except when caused by City's negligence alone or jointly with any person other than Airline, its agents, contractors and subcontractors, and shall furnish to City certificates evidencing such insurance, naming City as an additional assured thereunder, subject to the limitations set forth above in respect of City's negligence, to wit:

Aviation Public Liability Limits:

Bodily Injury and Property Damage Combined Single Limit – \$2,000,000 per occurrence

General Liability Limits:

Bodily Injury and Property Damage Combine Single Limit – \$2,000,000 per occurrence

If pursuant to any other agreement between Airline and City, Airline is complying with requirements identical with those of this Section; such compliance shall also serve as compliance with the requirements of this Section.

6.09 MEANS OF ACCESS:

City will permit full and unrestricted access by Airline, its passengers, agents, servants, invitees, employees and furnishers of good or services, to and from the Airport and its premises, for all purposes contemplated by this Agreement, by a means of access located outside the boundaries of such premises, whether by roadways, taxiways, corridors, lobbies, hallways, or other means of access.

The use of the means of access specified shall, without exception, be in common with such other persons (including, at the option of City, the general public) as City may authorize or permit, and City may, at any time or times, close, relocate, reconstruct, change, alter, or modify such means of access, either temporarily or permanently, provided, that a reasonable, convenient, and adequate means of ingress and egress is available for the same purposes.

Moreover, without exception, no such provisions shall be construed to prevent City from charging the operators of vehicles carrying passengers and property for the privilege of entering upon the Airport or using the roadways in or on the Airport, or soliciting passengers upon the Airport, or otherwise operating on the Airport; and notwithstanding any other provisions of this Agreement and Lease, City reserves the right to make such charges provided that they do not discriminate unreasonably against the operators of vehicles owned or leased and used exclusively for carrying officers, employees, passengers, or property of Airline as contrasted with those of the same class carrying other persons or property.

6.10 NOTICES TO CITY AND AIRLINE:

All notices required to be given to City hereunder shall be in writing and shall be sent by certified mail, return receipt requested, to the Airport Manager, 2416 Boeing Avenue, Watertown, South Dakota, 57201; all notices required to be given to Airline hereunder shall be in writing and shall be sent by certified mail, return receipt requested, addressed to Airline at Aerodynamics Inc., 114 Townpark Drive #500, Keenesaw, GA 30144 provided that the parties, or either of them, must designate in writing from time to time any change in mailing address, and may designate the addresses of substitute or supplementary persons in connection with said notices. The effective date of service of any such notices shall be the date such notice is mailed to Airline or said Manager.



6.11 IMPROVEMENTS BY AIRLINE:

Airline, subject to City's prior written approval, may install, erect or place in, on or about the Airport any improvements which Airline considers appropriate to the operation of its air transportation system. All such improvements will remain the property of Airline. Airline will have the right, at any time while this Agreement is in effect and for sixty (60) days thereafter, to remove any or all such improvements from the Airport, provided that Airline is not then in default in its payment to City hereunder and that Airline will repair any damage resulting from such removal. Title to all improvements not so removed by Airline will vest in City.

6.12 ALTERATIONS TO PREMISES:

Airline may, with the prior written approval of City's Airport Manager, at its own expense install in its exclusively leased premises any fixture or improvement or do or make alterations or do remodeling, germane to the use herein or hereafter granted. Any fixtures, improvements, equipment and other property brought, installed, erected, or placed by Airline in, or about such premises shall be deemed to be personal property and shall be and remain the property of Airline, except as otherwise provided herein, and to remove any or all of its property, subject to Airline's obligation to repair damage, if any, resulting from such removal. All such fixtures, improvements, equipment and other property shall be removed from said premises by the expiration or earlier termination of the letting, reasonable wear and tear excepted, unless City, acting by and through its Airport Manager shall have advised Airline in writing at the time of such installation, or not less than sixty (60) days in advance of such expiration or earlier termination of its willingness to accept title to such fixtures, improvements, equipment, and other property in lieu of restoration of the premises. Said improvements and all alterations thereof and additions thereto, shall in all respects be constructed in accordance with the ordinances and any applicable Rule and Regulation of City, and pursuant to any required building permit to be obtained from City and according to the customary terms and condition thereof.

6.13 DAMAGE OR DESTRUCTION:

If any building containing space leased to Airline is damaged by fire or other casualty, and the repair thereof is justified in the reasonable judgment of the Airport Manager after considering existing and contemplated construction programs and such repair can be completed within ninety (90) days from the date on which damage occurred, then City shall repair the building at its own expense, with reasonable diligence, and Airline rental thereof shall be equitably reduced during the period of such repair. If any building shall be damaged by fire or casualty, and the repair thereof is not justified in the reasonable judgment of the Airport Manager after considering existing and contemplated construction programs, then City shall within thirty (30) days give notice thereof to Airline that it does not intend to repair the damage, and the rental of said damaged building shall terminate.

6.14 AIRPORT RESPONSE CHARGES:

In any event where the Airport is not responsible to provide a service for or on behalf of Airline as required elsewhere in this agreement, Airline shall pay to the Airport, within twenty (20) days of receipt of invoice, the charges for services and/or response requested by or necessitated by the Airline and provided by Airport Operations and Maintenance Staff, Watertown Fire Rescue Staff, and Watertown Police Department Staff. These charges will be based upon an hourly rate of fifty dollars (\$50.00) per representative. In addition, Airline will be charged for actual cost, material, equipment, contractor invoices plus 10% for Airport administration and overhead charges if Airport services or response is needed.

Should Airline fail to make any repairs for which it is responsible, the Airport shall have the option to make the needed repairs, and Airline shall immediately reimburse the Airport for the total cost of such work. The making of such repairs by the Airport shall in no event be construed as a waiver of Airline's duty to make repairs as provided in this Agreement.

6.15 TERMINATION BY THE CITY:



City may terminate this Agreement with thirty (30) days' notice, upon or after any of the following events:

- (a) Airline files a voluntary petition in bankruptcy;
- (b) Airline is adjudicated as bankrupt by a court of competent jurisdiction;
- (c) a court takes jurisdiction of Airline and its assets under the provisions of any Federal reorganization act;
- (d) a receiver of Airline's assets is appointed;
- (e) Airline is divested of its estate herein by other operation of law; or
- (f) Airline defaults under any of its obligations herein contained and fails to remedy such default within sixty (60) days after receipt from the City of notice or remedy same, provided that no notice of termination by the City will be effective if Airline has either:
 1. remedied the default; or
 2. indicated corrective action upon receipt of such notice and such action may require more than sixty (60) days to complete, prior to receiving such notice of termination.

Acceptance by City following a default will not be deemed a waiver of such default. No waiver of a default by the City will constitute a waiver of any other or subsequent default. City may otherwise terminate this Agreement by providing written notice within ninety (90) days prior to the effective date of cancellation.

6.16 TERMINATION BY AIRLINE:

Airline, in addition to any right of cancellation or any other rights herein given to Airline, may cancel this lease in its entirety and terminate all or any of its obligations hereunder at any time, by sixty (60) days' written notice, upon or after the happening of any one of the following events:

- (a) The failure or refusal of the Federal Aviation Administration to continue the right of Airline to operate into and from said Airport.
- (b) Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of said Airport, where such injunction, by its terms, remains in effect for a period of at least thirty (30) days.
- (c) The breach by City of any of the covenants and agreements herein contained and the failure of City to remedy such breach for a period of sixty (60) days after receipt of written notice of the existence of such breach.
- (d) The inability of Airline to use said premises and facilities continuing for a longer period than thirty (30) days, whether due to law or order, rule or regulation or any appropriate governmental authority having jurisdiction over the operations of Airline, or due to war, sabotage, earthquake, or other casualty which is not a result of the negligent acts or negligent omissions of Airline or its employees, or due to the assumption by the United States government or any authorized agency thereof of the maintenance and operation of said Airport and facilities or any substantial part or parts thereof, so as to impair the operations of Airline.
- (e) Any action of the Federal Aviation Administration refusing to permit Airline to operate into, from, or through said Airport such aircraft as Airline may reasonably desire to operate, provided all such aircraft have been approved by the Federal Aviation Administration.

Acceptance by Airline following a default will not be deemed a waiver of such default. No waiver of a default by Airline will constitute a waiver of any other or subsequent default.

6.17 QUIET ENJOYMENT AND POSSESSION:

City agrees that on payment of the rentals, fees, and performance of the covenants and agreements on the part of Airline to be performed hereunder, Airline shall peaceably have and enjoy the leased premises and all the rights and privileges of the Airport, its appurtenances and facilities granted herein.

6.18 OTHER CARRIER AGREEMENTS - RECIPROACITY

If City grants to any other Certified Air Carrier terms, rights or privileges with respect to the Airport more favorable than those granted herein, the same terms, rights, and privileges will be available to this Airline. Space within the Terminal Building which may be vacated or released by any other Certified Air Carrier shall be open for negotiation.

6.19 NO HOLDING OVER AFTER TERM OF AGREEMENT

There shall be no provision for holding over after the term of this agreement provided herein.

6.20 CONSENTS AND APPROVALS

Consents and approvals referred to herein (a) will not be unreasonably withheld and (b) will be deemed given unless notice of denial, specifying the reasons therefore, is given within thirty (30) days after receipt of the request.

6.21 GOVERNING LAW AND VENUE:

This Agreement and Lease shall be deemed to have been made in and by construed in accordance with the laws of the State of South Dakota, and Airline hereby submits itself to the personal jurisdiction of the State of South Dakota, agreeing that all disputes arising hereunder shall be in the venue of the Circuit Court for State of South Dakota, Third Judicial Circuit, in the County of Codington.

6.22 CITY RULES AND REGULATIONS:

Airline will obey all reasonable rules and regulations of City, provided they are not inconsistent with this Agreement, or other superseding governmental authority, and provided they are consistent with safety and with the rules or procedures prescribed by any competent United States government authority.

6.23 RESTRICTION OF OPERATIONS:

If City or Airline's operations at the Airport are substantially restricted by any governmental or judicial action, either party will have the right, after first providing written notice, to an equitable reduction of any relevant provision of this Agreement until such restriction has been remedied and normal operations are restored.

6.24 ACKNOWLEDGMENT OF AUTHORITY:

City and Airline acknowledge they have been authorized to execute this Agreement according to its terms by their respective governing bodies or boards and agree to be bound thereby.

6.25 INVALIDITY:

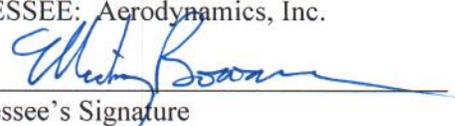
The invalidity of any provision of this Agreement will not affect the other provisions, unless the purpose of the parties in making this Agreement would be thereby frustrated.

IN WITNESS WHEREOF the parties have hereunto set their hand on this _____ day of _____, 2016.

City of Watertown

Mayor
City of Watertown

LESSEE: Aerodynamics, Inc.



Lessee's Signature





The foregoing Airport Lease Agreement is hereby approved and ratified by City Council of the City of Watertown, South Dakota, this _____ day of _____, 2016

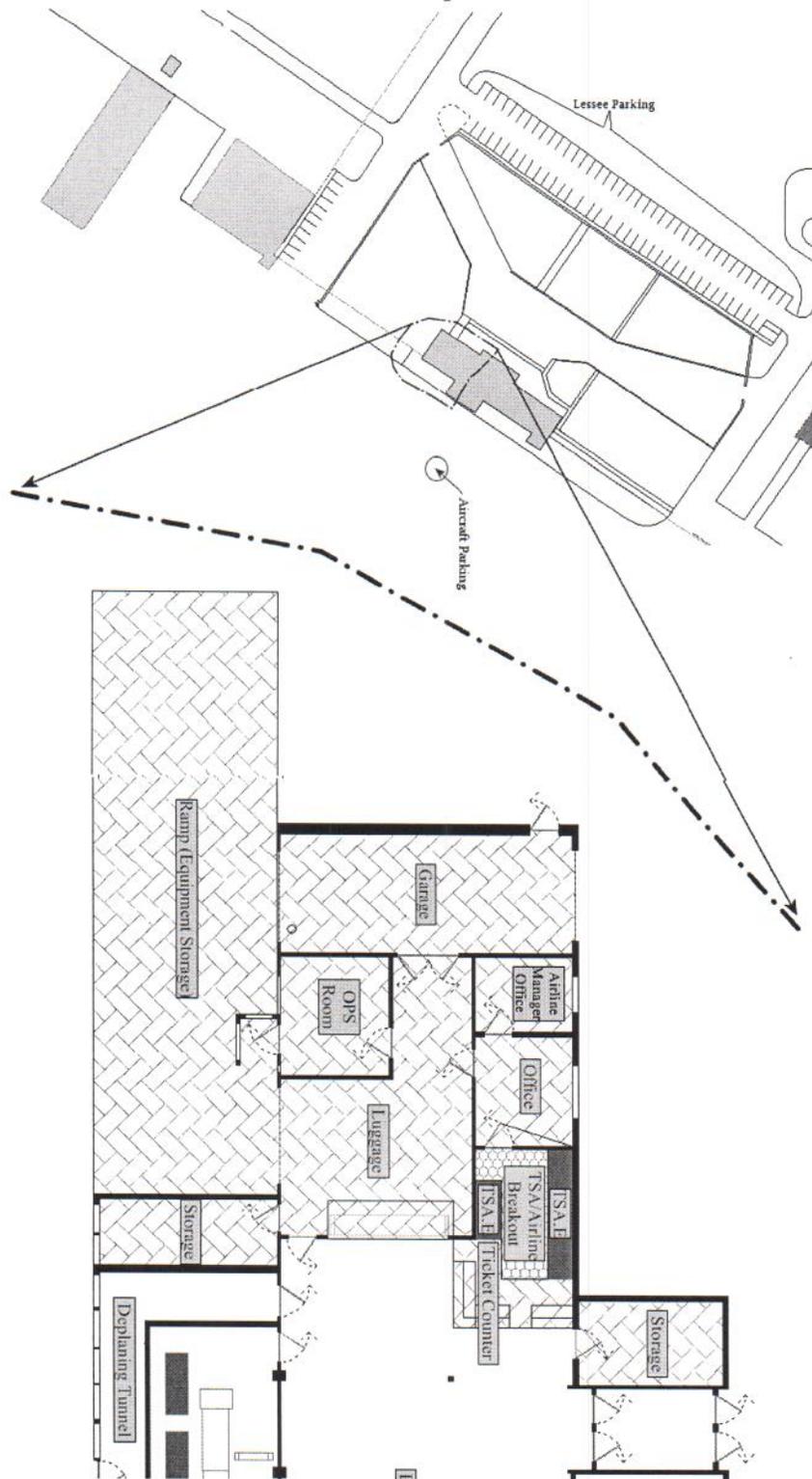
Mayor
City of Watertown

ATTEST:

Finance Officer
City of Watertown



EXHIBIT A
Leased Space



Request for City Council Action

TO: Mayor and City Council
FROM: Shane Waterman, P.E., City Engineer
MEETING DATE: August 1, 2016
SUBJECT: **Consideration of Change Order No. 1 - 2016 Street Improvements Project #1601**

Background: On March 21, 2016 the City Council awarded a contract for the 2016 Street Improvements Project #1601 to Koehl Excavating LLC of Hancock, MN with the low bid of \$313,166.66.

Construction began in June, 2016. During the installation of the storm sewer a conflict was discovered between the location of a primary power cable owned by Watertown Municipal Utilities and the proposed storm sewer main. The Utility Company dispatched their personnel to move the power line. During the relocation of the power line Koehl Excavating was unable to work on the project for three days and subsequently moved off of the project to allow the Utility Company to complete their work.

Subsequently, the City received a change order request for the additional costs for mobilization and loss of production. The cost of the extra mobilization is \$800. City Staff negotiated the loss of production to an equivalent amount of liquidated damages at the rate of \$500 per day for a cost of \$1,500. The total cost for the additional mobilization is \$2,300.

Additionally, Change Order No. 1 pays for some extra time spent by the Contractor to resolve a conflict issue with a sanitary sewer service line. The work took 1.5 hrs. at a rate of \$275/hr. for a cost of \$412.50.

If approved Change Order No. 1 will increase the contract by \$2,712.50.

Recommendation: Approve Change Order No.1 in the amount of \$2,712.50 and increasing the contract for Project #1601 to Koehl Excavating LLC to the amount of \$315,879.16.

Council Action Requested:
Motion to Approve.

CONSTRUCTION CHANGE ORDER NO. 1

Date: July 18, 2016

Project: Project No. 1601
2016 Street Improvements

Contract For: Street & Storm Sewer Construction

Contract Date: March 21, 2016

Contractor: Koehl Excavating LLC

YOU ARE HEREBY DIRECTED TO MAKE CHANGES IN THE SUBJECT CONTRACT AS DESCRIBED BELOW:

For the City of Watertown

Mayor: _____ Date: _____
Mayor Steve Thorson

Nature of Changes: 1) Exploratory digging, 1.5 hours at \$275/hr., conflict with sanitary sewer service.
2) Mobilization @ \$800 and 3 days delay while waiting for primary electric line to be relocated @ \$500/day.

These Changes result in the following adjustment of Contract Price and Time:

Contract Price Prior to This Change Order	\$ 313,166.66
Net INCREASE in Price Resulting from this Change Order	\$ 2,712.50
Current Contract Price Including This Change Order	\$ 315,879.16
Contract Time Prior to This Change Order	Sept. 15, 2016
Net INCREASE in Time Resulting from this Change Order	0 days
Current Contract Time Including This Change Order	Sept. 15, 2016

APPROVAL OF CHANGE ORDER

City Engineer: Shane Wat Date: 7-25-16
Shane Waterman, P.E.

ACCEPTANCE OF CHANGE ORDER

This Change Order is hereby acknowledged and accepted for Koehl Excavating, LLC.

By: Paul Koehl Date: 7-18-16
Name: Paul Koehl
Title: Chief Executive Officer