

AGENDA
SHAKOPEE PUBLIC UTILITIES COMMISSION
REGULAR MEETING
January 7, 2019

1. **Call to Order** at 5:00pm in the SPUC Service Center, 255 Sarazin Street.
2. **Approval of Minutes**
3. **Communications**
 - 3a) Shakopee Community Assistance Thank You
 - 3b) Shakopee Schools AED Project Thank You
4. **Approve the Agenda**
5. **Approval of Consent Business**
6. **Bills: Approve Warrant List**
 - 6a) December 17, 2018
 - 6b) January 7, 2019
7. **Liaison Report**
8. **Reports: Water Items**
 - 8a) Water System Operations Report – Verbal
 - 8b) Water Connection/Capacity Charge Discussion
 - 8c) Resn. #1231 – Approving Payment for the Pipe Oversizing Costs on the Watermain Project: Windermere Way
 - 8d) Resn. #1232 – Approving Payment for the Pipe Oversizing Costs for the Watermain Project: Windermere Second Addition
 - 8e) Resn. #1233 – Approving Payment for the Pipe Oversizing Costs for the Watermain Project: Vierling Drive Connection CP2017-10
 - C=> 8f) Quarterly Nitrate Report
 - C=> 8g) Quarterly Website Analytics
9. **Reports: Electric Items**
 - 9a) Electric System Operations Report – Verbal
 - 9b) LED Streetlight Project
10. **Reports: Human Resources**
11. **Reports: General**
 - 11a) SPU Donations Policy and 2018 Review
 - 11b) MN State Statute on Competitive Bidding – Overview
 - 11c) Resn. #1234 – Establishing Electric Rates for Customers Served By Shakopee Public Utilities (Shakopee Energy Park)
 - C=> 11d) Financial Results for November 2018
12. **New Business**
13. **Tentative Dates for Upcoming Meetings**

- Mid Month Meeting	--	January 22 (Tuesday)
- Regular Meeting	--	February 4
- Mid Month Meeting	--	February 19 (Tuesday)
- Regular Meeting	--	March 4
14. **Adjourn** to 1/22/19 at the SPUC Service Center, 255 Sarazin Street

MINUTES

OF THE

SHAKOPEE PUBLIC UTILITIES COMMISSION (Regular Meeting)

President Weyer called the regular session of the Shakopee Public Utilities Commission to order at the Shakopee Public Utilities meeting room at 5:00 P.M., December 3, 2018.

MEMBERS PRESENT: Commissioners Joos, Amundson, Meyer and Weyer. Also present, Liaison Mocol, Finance Director Schmid, Planning & Engineering Director Adams, Electric Superintendent Drent, Water Superintendent Schemel and Marketing/Customer Relations Director Walsh.

Motion by Joos, seconded by Amundson to approve the minutes of the November 19, 2018 Commission meeting. Motion carried.

Under Communications, a thank you letter was received from the CAP Agency for the donation from SPU. A thank you letter was also received from Kid's Voting Shakopee for the SPU donation and the volunteers provided on Election Night.

President Weyer offered the agenda for approval.

Motion by Joos, seconded by Meyer to approve the agenda as presented. Motion carried.

There was no Consent Business.

The warrant listing for bills paid December 3, 2018 was presented.

Motion by Amundson, seconded by Joos to approve the warrant listing dated December 3, 2018 as presented. Motion carried.

Liaison Mocol presented her report. In her report the issue of the 2019 increase to both the TWC and WCC was discussed. Staff responded by stating the fees were going up 5.4%. A lengthy discussion followed.

Water Superintendent Schemel provided a report of current water operations. Over the past two weeks, external inspections of all water towers and tanks took place. It was reported there were no issues. Internal tank and tower inspections will take place in the spring.

Motion by Joos, seconded by Amundson to offer Resolution #1217. A Resolution Adjusting Fees Applied Under The Reconstruction Fund Charge Resolution. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Meyer, seconded by Joos to offer Resolution #1218. A Resolution Adjusting Fees Applied Under the Water Connection Charge Policy Resolution and Re-Labeling the Fee the

Water Capacity Charge. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Joos, seconded by Amundson to offer Resolution #1219. A Resolution Adjusting Fees Applied Under The Trunk Water Charge Policy Resolution. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Meyer, seconded by Joos to offer Resolution #1220. A Resolution Establishing Water Meter and Installation Fees. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Amundson, seconded by Joos to offer Resolution #1221. A Resolution Approving Payment For The Pipe Oversizing Costs On The Watermain Project: Menden's Addition. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Joos, seconded by Meyer to offer Resolution #1222. A Resolution Approving Payment for the Pipe Oversizing Costs on the Watermain Project: Ridge Creek Second Addition. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Mr. Schemel presented the 2017 Water Fluoridation Quality Award to the Commission. The award comes from both the Center for Disease Control and the MN Department of Health. Water Staff was thanked for their diligent work.

Electric Superintendent Drent provided a report of current electric operations. One electrical outage was reported. The LED streetlight change out is almost complete. There was an update to construction projects and the issue of joint trenching with other utilities was discussed.

Motion by Joos, seconded by Amundson to offer Resolution #1223. A Resolution Establishing Electric Rates for Customers Served By Shakopee Public Utilities. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Amundson, seconded by Meyer to offer Resolution #1224. A Resolution Adjusting Fees Applied Under The Relocation Underground Charge Resolution. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Amundson, seconded by Joos to offer Resolution #1225. A Resolution Adjusting Fees Applied Under The Installation Of Underground Electrical Distribution Systems Policy Resolution. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

The final version of the Electric Service Rules and Regulations was presented by Planning and Engineering Director Adams. Two sections within the document were updated to provide

more detail. The first section was regarding the SPU disconnection policy and the second section was the tree trimming policy.

Motion by Meyer, seconded by Joos to offer Resolution #1226. A Resolution Adopting the Electric Service Rules and Regulations of the Shakopee Public Utilities Commission And Providing For General Administration. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Mr. Adams read the MPPA Board Meeting Public Summary for November 2018.

Mr. Adams presented an APPA Public Power Magazine article which reviewed the SPU Smart Home Project. It was also noted that Utilities Manager Crooks presented at an APPA national webinar regarding our energy education programs with students in Shakopee.

The Utilities Manager's Annual Review was discussed and will tentatively take place immediately following the scheduled Commission meeting on January 22.

Motion by Meyer, seconded by Joos to offer Resolution #1227. A Resolution Adopting Fees and Charges for 2019. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Joos, seconded by Meyer to offer Resolution #1228. A Resolution Designating An Official Means Of Publication. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Amundson, seconded by Joos to offer Resolution #1229. A Resolution Designating Official Depositories of the Shakopee Public Utilities Commission Funds. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

Motion by Joos, seconded by Meyer to offer Resolution #1230. A Resolution Allowing the Use of Facsimile Signature for Check Signing. Ayes: Commissioners Amundson, Weyer, Joos and Meyer. Nay: none. Motion carried. Resolution passed.

The tentative commission meeting dates of December 17 and January 7 were noted. The December 17 meeting will be canceled.

This was the last meeting for our Council Liaison, Kathy Mocol, and she was thanked for serving in that capacity.

Motion by Amundson, seconded by Meyer to adjourn to the January 7, 2019 meeting. Motion carried.



Commission Secretary: John R. Crooks

Thank You

You make a Difference

SO APPRECIATIVE OF THE VERY GENEROUS
DONATION MADE TO SCA AND FOR BELIEVING
IN OUR MISSION TO PROVIDE FOR THE BASIC
NEEDS OF YOUNG CHILDREN FROM LOCAL
FAMILIES IN NEED. YOUR DONATION WILL
MAKE A BIG DIFFERENCE IN THE PURCHASE
OF NUTRITIONAL FOOD CHOICES AND DIAPERS!!

BLESSINGS -

As an increasing number of families from our
community are receiving services from SCA, we
are committed to expand, in order to meet the
growing needs of our clients and guests

Our staff is all volunteer

Our space is donated by Saints Joachim and Anne
100% of contributions support the mission of SCA

Your support makes this possible

In Love and Faith from all of us at SCA

Dick Amy Kelly

Crooks, John



From: Janni Hennes <rjhennes@aol.com>
Sent: Thursday, November 29, 2018 9:59 AM
To: Walsh, Sharon; Crooks, John
Subject: Re: Does Shakopee Utilities have a Community "Giving Back" program

3b

Hello Sharon and John,

I can't thank you enough for the \$1000 donation for the Shakopee Schools AED project. Should additional donation funding be available in 2019, the project will welcome it.

I think the \$1000 donation is a very significant amount to our project and I would like to place a plaque on one of our AED's to acknowledge the generosity.

What I need from you is a jpeg of your business logo and I will have a plaque created that will read AED donated by Shakopee Public Utilities and the logo.

I will send a picture once it is mounted on the cabinet. We will be placing a bulk order of AED's in December.

You can make the donation check to
Shakopee Schools ISD #720
Tax ID number 41-6003781

In the memo line- donation for Shakopee Schools AED project.

Could you mail check to me- I am collecting them and making sure they are in our budget line for AED's.

Janni Hennes
1175 Shumway St. S.
Shakopee, MN 55379

Again, the donation is so appreciated.
Have a great day.

Janni Hennes

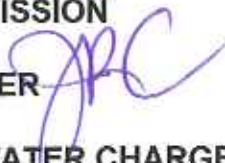
-----Original Message-----

From: Walsh, Sharon <swalsh@shakopeeutilities.com>
To: 'Janni Hennes' <rjhennes@aol.com>; Crooks, John <jcrooks@shakopeeutilities.com>
Sent: Wed, Nov 28, 2018 11:57 am
Subject: RE: Does Shakopee Utilities have a Community "Giving Back" program

Hello Janni,

I have spoken to our Utilities Manager, John Crooks, and we are going to proceed with a \$1000 donation for the Shakopee school district AED's. Should additional donation funding be available in 2019, we may contribute the balance to reach the \$1400 sponsorship at that time. For now, we are pleased to contribute \$1000 to such a worthwhile effort.

**SHAKOPEE PUBLIC UTILITIES
MEMORANDUM**

TO: SHAKOPEE PUBLIC UTILITIES COMMISSION
FROM: JOHN R. CROOKS, UTILITIES MANAGER 
SUBJECT: WATER CONNECTION AND TRUNK WATER CHARGES
OVERVIEW, DISCUSSION AND RECENT ISSUES
DATE: JANUARY 3, 2019

ISSUE –

Within the past month there has been much discussion regarding the 2019 increases to the Water Connection (Capacity) and Trunk Water Charges. Due to this discussion several events have taken place and it is felt appropriate to present this information at this time.

BACKGROUND –

Shakopee Public Utilities has had the WCC and the TWC charges in place, as policy since the beginning of the 1980's.

The WCC Fund finances wells, pump houses, storage tanks, booster stations, water towers and transmission watermain projects. The WCC *"shall be applied to all new water connections to, or newly drawing water from the Shakopee water system; and that the WCC shall also be applied to all instances where increased water usage is indicated by an increase in SAC units or by other means, ie. metered water usage"*.

The TWC Fund finances watermain oversizing agreements and fully financed SPU trunk projects. If it is found to *"be in the best interest of the water system that larger size mains than standard be installed for the overall benefit of the water system, the Commission may elect to pay for the difference in the cost of material necessary to provide for the larger watermains"*.

The charges for each fund are calculated and have been updated by studies performed by consultants. There have been 14 such studies since 1976.

This is quite similar to TWC and WCC issues that were discussed in the Fall of 2015. It was at this time the Commission had asked for Staff to look into economic development opportunities for SPU. The Commission reaffirmed the

TWC and WCC policies. Also discussed were the many ways in which SPU provides such opportunities for the City of Shakopee.

DISCUSSION –

As the Commission is aware, TWC and WCC charges were brought up at the December 3, 2018 Commission meeting by our Council Liaison. I was not in attendance for the meeting as I had been invited to attend a City Council Workshop in Prior Lake. Staff informed me the following day about the discussion between our Liaison, Staff and Commission members.

I had informed Staff of this potential issue prior to the December 3, 2018 meeting. Around 3pm on December 3, I had received a phone call from Brad Tabke regarding the WCC and TWC charge increase that was in the public packet. I stated the increase was 5.4% for each of the fees, with an additional \$500 increase to the TWC, and explained the reasons for the proposed increase. He seemed to be OK with the explanation. I have not heard from Mr. Tabke since that conversation.

Twenty minutes later I received a phone call from Angie Whitcomb, Executive Director with the SVB/Chamber of Commerce regarding the same issue that Mr. Tabke had brought up. I shared the same information with her that I had just talked with Mr. Tabke about. Ms. Whitcomb then asked if I would be available to present this same information to the Public Policy Committee of the Chamber of Commerce on December 11, 2018. I agreed to meet.

It was at this time I met with Joe Adams and Renee Schmid to let them be aware of the two phone calls that I had received and that I was unsure of the circumstances that led to the phone calls so close to the start of the Commission meeting.

On December 5, 2018, Joe Adams attended a City of Shakopee DRC meeting and was told by the City of Shakopee Director of Planning and Development that he should watch the City Council meeting that took place December 4, 2018.

I then watched the City Council meeting on video regarding the Willy McCoy's request for SAC credits. After viewing several minutes of the meeting, I wrote an email to the City Administrator and the Mayor objecting to the incorrect information being provided to the Council and the portrayal of SPU being an impediment to development for the City.

Also on December 5, 2018, I received an email from the City Engineer requesting the following information:

- 2018 Drinking Water Plan
- Wellhead Protection Plan

- Emergency Action Plan Current CIP (2019 and beyond)
- 2018 and 2019 detailed budgets
- Latest user rate study
- Other studies performed to determine connection fees.

The following day, December 6, 2018, I received an email from the City Administrator requesting the following information:

- SPU Policy for rate increases
- SPU justification for "WAC" charges as outlined in policy or other documentation
- SPU policy of looping
- SPU financial investment returns for the past 5 years
- SPU financial policy to include policy on cash reserves and investments
- 2007 Water Connection Fund and Trunk Water Fund Analysis and Report

On December 11, 2018, Joe Adams, Renee Schmid and myself met with the Public Policy Committee of the Chamber of Commerce. In this meeting we presented the four funding mechanisms for the Water Department, those being the Operations Fund, Reconstruction Fund, Trunk Water Fund and Water Connection Fund. The discussion then centered around the Trunk Water and Water Connection Funds. We detailed each fund with their definition, their policy, how it is calculated, how it is collected and the financial history of each fund. This was followed by comparative water rates, water fees and charges with our surrounding communities. The Committee appreciated the information and thanked SPU for our willingness to meet on short notice.

On December 18, 2018, I received another email from the City Administrator requesting additional information as follows:

- Resolution #261 and any resolutions adjusting the WCC
- Resolution #222 and any resolutions adjusting the TWC
- The Engineering Study for which the TWC was originally established February 2, 1981
- The Engineering and Fiscal Studies that adjusted the TWC adopted by SPU on April 21, 2003 and again on December 3, 2007
- Other justifications for the current TWC and WCC
- Comparison Studies conducted by SPU regarding similar charges in the Twin Cities or Greater Minnesota

The majority of this information has been made available to City Staff. I will have information available at the Commission meeting of where we stand in delivering this information to the City. I will also have any emails, communications or follow ups in regards to any of the information contained in this memo.

CONCLUSION –

This information is being brought forward to make the Commission aware of certain discussions taking place outside of SPU. I have been available to discuss the issues, provide current and historical information and provide correct information. A potential meeting has been discussed with the City Council, but no specifics have been brought forward. SPU has asked the City Administrator to allow SPU to present the same information that was presented to the Chamber on December 11, 2018 or to address any concerns or questions from the City Council regarding these TWC and WCC issues.

RESOLUTION # 1231

A RESOLUTION APPROVING PAYMENT FOR THE PIPE OVERSIZING
COSTS ON THE WATERMAIN PROJECT:Windermere Way

WHEREAS, the Shakopee Public Utilities Commission had previously approved of an estimated amount of \$14,987.67 with Resolution #1206 for oversizing on the above described watermain project, and

WHEREAS, the pipe sizes required for that project have been installed as shown on the engineering drawing by Westwood Professional Services, Inc., and

WHEREAS, a part, or all, of the project contains pipe sizes larger than would be required under the current Standard Watermain Design Criteria as adopted by the Shakopee Public Utilities Commission, and

WHEREAS, the policy of the Shakopee Public Utilities Commission calls for the payment of these costs to install oversize pipe above the standard size.

NOW THEREFORE, BE IT RESOLVED, that the payment by the Shakopee Public Utilities Commission for the oversizing on this project is approved in the amount of \$14,987.67, and

BE IT FURTHER RESOLVED, that all things necessary to carry out the terms and purpose of this Resolution are hereby authorized and performed.

Passed in regular session of the Shakopee Public Utilities Commission, this 7th day of January, 2019.

Commission President: Aaron Weyer

ATTEST:

Commission Secretary: John R. Crooks

RESOLUTION # 1232

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A RESOLUTION APPROVING PAYMENT FOR THE PIPE OVERSIZING
COSTS ON THE WATERMAIN PROJECT:

Windermere Second Addition

WHEREAS, the Shakopee Public Utilities Commission had previously approved of an estimated amount of \$8,294.13 with Resolution #1195 for oversizing on the above described watermain project, and

WHEREAS, the pipe sizes required for that project have been installed as shown on the engineering drawing by Westwood Professional Services, Inc., and

WHEREAS, a part, or all, of the project contains pipe sizes larger than would be required under the current Standard Watermain Design Criteria as adopted by the Shakopee Public Utilities Commission, and

WHEREAS, the policy of the Shakopee Public Utilities Commission calls for the payment of these costs to install oversize pipe above the standard size.

NOW THEREFORE, BE IT RESOLVED, that the payment by the Shakopee Public Utilities Commission for the oversizing on this project is approved in the amount of \$8,222.04, and

BE IT FURTHER RESOLVED, that all things necessary to carry out the terms and purpose of this Resolution are hereby authorized and performed.

Passed in regular session of the Shakopee Public Utilities Commission, this 7th day of January, 2019.

Commission President: Aaron Weyer

ATTEST:

Commission Secretary: John R. Crooks

RESOLUTION # 1233

A RESOLUTION APPROVING PAYMENT FOR THE PIPE OVERSIZING
COSTS ON THE WATERMAIN PROJECT:Vierling Drive Connection CP2017-10

WHEREAS, the Shakopee Public Utilities Commission had previously approved of an estimated amount of \$47,763.81 with Resolution #1174 for oversizing on the above described watermain project, and

WHEREAS, the pipe sizes required for that project have been installed as shown on the engineering drawing by WSB & Associates, Inc., and

WHEREAS, a part, or all, of the project contains pipe sizes larger than would be required under the current Standard Watermain Design Criteria as adopted by the Shakopee Public Utilities Commission, and

WHEREAS, the policy of the Shakopee Public Utilities Commission calls for the payment of these costs to install oversize pipe above the standard size.

NOW THEREFORE, BE IT RESOLVED, that the payment by the Shakopee Public Utilities Commission for the oversizing on this project is approved in the amount of \$25,797.38, and

BE IT FURTHER RESOLVED, that all things necessary to carry out the terms and purpose of this Resolution are hereby authorized and performed.

Passed in regular session of the Shakopee Public Utilities Commission, this 7th day of January, 2019.

Commission President: Aaron Weyer

ATTEST:

Commission Secretary: John R. Crooks





SHAKOPEE PUBLIC UTILITIES COMMISSION

"Lighting the Way - Yesterday, Today and Beyond"

8f

MEMORANDUM

TO: John R. Crooks, Utilities Manager 

FROM: Lon R. Schemel, Water Superintendent 

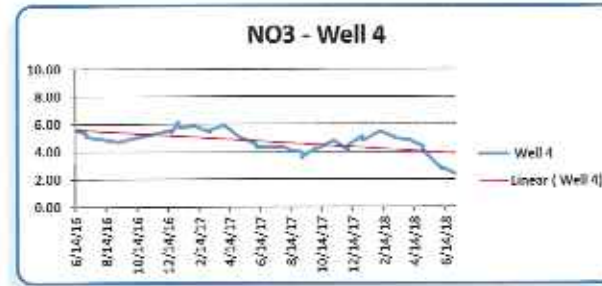
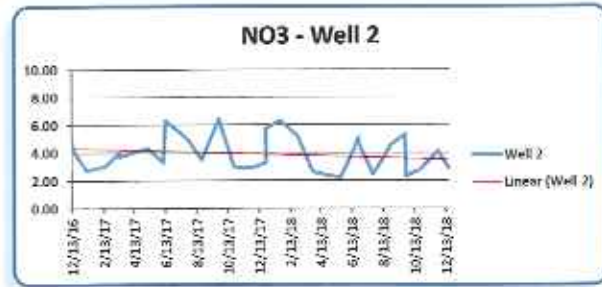
SUBJECT: Nitrate Results Update -- Advisory

DATE: January 3, 2019

Attached are the latest nitrate test results for the wells. The analyses provided are for the prior 2 years of data collected with trend graphs.

Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

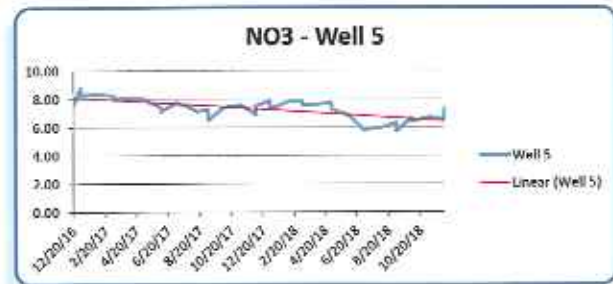
Location	Sample Collected	Results Received	Results	Lab	Run Time
2	12/13/16	12/19/16	4.82	MVTL	192 hrs prior
2	12/13/16	2/9/17	4.30	MDH	
2	1/10/17	1/20/17	2.73	MVTL	168 hrs prior
2	2/14/17	3/8/17	3.92	MVTL	168 hrs prior
2	3/14/17	3/23/17	3.98	MVTL	168 hrs prior
2	3/14/17	4/24/17	3.70	MDH	
2	5/9/17	5/25/17	4.33	MVTL	168 hrs prior
2	6/9/17	6/28/17	3.30	MDH	168 hrs prior
2	6/9/17	7/27/17	3.40	MDH	
2	6/13/17	6/20/17	6.28	MVTL	192 hrs prior
2	7/25/17	8/1/17	6.00	MVTL	192 hrs prior
2	8/22/17	8/28/17	3.50	MVTL	168 hrs prior
2	9/28/17	10/4/17	6.42	MVTL	168 hrs prior
2	9/28/17	10/20/17	6.30	MDH	
2	10/24/17	11/17/17	3.00	MVTL	168 hrs prior
2	11/28/17	12/11/17	2.90	MVTL	168 hrs prior
2	12/26/17	1/9/18	3.28	MVTL	168 hrs prior
2	12/26/17	2/20/18	6.70	MDH	
2	1/23/18	2/20/18	6.32	MVTL	168 hrs prior
2	2/27/18	3/8/18	5.14	MVTL	168 hrs prior
2	3/27/18	5/31/18	2.70	MDH	
2	4/3/18	4/10/18	2.65	MVTL	168 hrs prior
2	4/24/18	5/9/18	2.37	MVTL	168 hrs prior
2	5/22/18	5/31/18	2.21	MVTL	168 hrs prior
2	5/22/18	6/14/18	2.20	MDH	
2	6/28/18	7/2/18	5.07	MVTL	312 hrs prior
2	8/28/18	8/17/18	4.70	MDH	
2	7/24/18	8/17/18	2.41	MVTL	264 hrs prior
2	8/28/18	10/15/18	4.57	MVTL	168 hrs prior
2	9/25/18	10/15/18	5.39	MVTL	168 hrs prior
2	9/26/18	10/15/18	2.30	MDH	
2	10/23/18	11/7/18	2.78	MVTL	168 hrs prior
2	11/27/18	12/5/18	4.12	MVTL	168 hrs prior
2	12/18/18	12/26/18	2.88	MVTL	168 hrs prior
4	7/5/16	7/12/16	5.37	MVTL	168 hrs prior
4	7/5/16	11/10/16	5.10	MDH	
4	6/14/16	7/22/16	6.60	MDH	
4	9/8/16	9/12/16	4.73	MVTL	220 hrs prior
4	9/8/16	2/9/17	4.70	MDH	
4	10/11/16	10/17/16	5.04	MVTL	168 hrs prior
4	10/11/16	11/10/16	5.00	MDH	
4	12/20/16	12/27/16	5.57	MVTL	168 hrs prior
4	12/20/16	2/9/17	6.40	MDH	
4	1/9/17	1/18/17	6.15	MVTL	168 hrs prior
4	1/31/17	5/4/17	5.89	MDH	
4	2/7/17	2/14/17	5.84	MVTL	168 hrs prior
4	3/7/17	3/16/17	6.42	MVTL	168 hrs prior
4	3/7/17	4/24/17	5.80	MDH	
4	4/4/17	4/10/17	5.91	MVTL	168 hrs prior
4	5/2/17	5/18/17	5.10	MVTL	168 hrs prior
4	6/5/17	7/27/17	4.80	MDH	
4	6/8/17	6/14/17	4.35	MVTL	168 hrs prior
4	7/5/17	7/20/17	4.35	MVTL	168 hrs prior
4	8/1/17	8/1/17	4.36	MVTL	168 hrs prior
4	8/14/17	10/20/17	4.10	MDH	
4	9/5/17	9/26/17	3.99	MVTL	168 hrs prior
4	9/5/17	9/26/17	3.60	MDH	
4	10/3/17	10/20/17	4.29	MVTL	168 hrs prior
4	10/3/17	11/17/17	4.20	MDH	
4	11/7/17	3/2/18	4.83	MVTL	168 hrs prior
4	12/5/17	12/22/17	4.12	MVTL	192 hrs prior
4	12/5/17	1/8/18	4.50	MDH	
4	1/2/18	1/16/18	6.16	MVTL	168 hrs prior
4	1/2/18	2/20/18	4.80	MDH	
4	2/8/18	2/20/18	5.50	MVTL	168 hrs prior
4	3/6/18	3/26/18	5.09	MVTL	168 hrs prior
4	3/6/18	3/26/18	6.00	MDH	
4	4/3/18	4/10/18	4.89	MVTL	168 hrs prior
4	5/1/18	5/9/18	4.40	MVTL	168 hrs prior
4	5/1/18	6/26/18	4.10	MDH	
4	6/5/18	6/14/18	2.80	MVTL	168 hrs prior
4	6/5/18	7/18/18	2.90	MDH	
4	7/3/18	11/19/18	2.40	MDH	



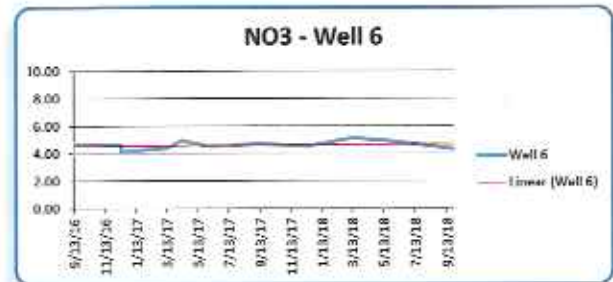
MVTL - Minnesota Valley Testing Laboratories
MDH - Minnesota Department of Health
TCWC - Twin City Water Clinic

Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

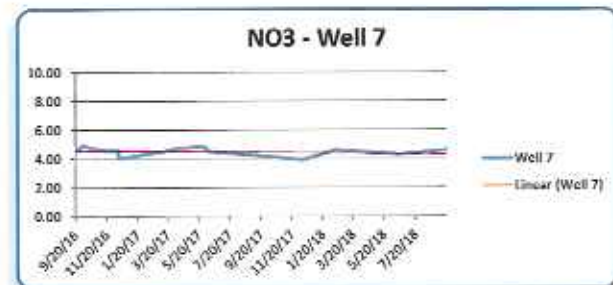
Location	Sample Collected	Results Received	Results	Lab	Run Time
5	12/20/16	12/27/16	7.94	MVTL	168 hrs prior
5	12/20/16	2/9/17	7.70	MDH	
5	1/3/17	1/16/17	8.80	MVTL	168 hrs prior
5	1/3/17	5/4/17	8.30	MDH	
5	2/7/17	2/14/17	8.39	MVTL	168 hrs prior
5	3/7/17	3/18/17	8.22	MVTL	168 hrs prior
5	3/7/17	4/24/17	8.00	MDH	
5	4/4/17	4/10/17	8.12	MVTL	168 hrs prior
5	5/2/17	5/10/17	8.04	MVTL	168 hrs prior
5	6/5/17	7/27/17	7.40	MDH	
5	6/6/17	6/14/17	7.12	MVTL	168 hrs prior
5	7/5/17	7/20/17	7.74	MVTL	168 hrs prior
5	8/1/17	8/7/17	7.40	MVTL	168 hrs prior
5	8/14/17	10/20/17	7.10	MDH	
5	9/5/17	9/26/17	7.27	MVTL	168 hrs prior
5	9/5/17	9/26/17	8.50	MDH	
5	10/3/17	10/20/17	7.33	MVTL	168 hrs prior
5	10/3/17	11/17/17	7.40	MDH	
5	11/7/17	3/2/18	7.57	MVTL	168 hrs prior
5	12/5/17	12/22/17	6.89	MVTL	192 hrs prior
5	12/5/17	1/8/18	7.80	MDH	
5	1/2/18	1/16/18	7.88	MVTL	168 hrs prior
5	1/2/18	2/20/18	7.30	MDH	
5	2/6/18	2/20/18	7.80	MVTL	168 hrs prior
5	3/6/18	3/26/18	7.84	MVTL	168 hrs prior
5	3/6/18	3/26/18	7.60	MDH	
5	4/3/18	4/10/18	7.62	MVTL	168 hrs prior
5	5/1/18	5/9/18	7.75	MVTL	168 hrs prior
5	5/1/18	6/26/18	7.39	MDH	
5	6/5/18	6/14/18	6.83	MVTL	168 hrs prior
5	6/5/18	7/18/18	6.80	MDH	
5	7/3/18	11/19/18	5.80	MDH	
5	8/7/18	8/20/18	5.99	MVTL	168 hrs prior
5	9/4/18	10/15/18	6.32	MVTL	168 hrs prior
5	9/4/18	10/15/18	5.70	MDH	
5	10/2/18	10/15/18	6.67	MVTL	168 hrs prior
5	10/2/18	11/19/18	6.40	MDH	
5	11/6/18	11/19/18	6.74	MVTL	168 hrs prior
5	12/4/18	12/11/18	8.55	MVTL	168 hrs prior
5	12/4/18	12/26/18	7.30	MDH	



6	9/13/16	9/28/16	4.84	MVTL	216 hrs prior
6	9/13/16	10/24/16	4.70	MDH	
6	12/13/16	12/19/16	4.80	MVTL	240 hrs prior
6	12/13/16	2/9/17	4.10	MDH	
6	3/14/17	4/24/17	4.40	MDH	168 hrs prior
6	4/11/17	4/17/17	4.94	MVTL	168 hrs prior
6	6/8/17	7/27/17	4.50	MDH	168 hrs prior
6	8/12/17	10/20/17	4.70	MDH	168 hrs prior
6	12/12/17	1/8/18	4.80	MDH	168 hrs prior
6	3/13/18	4/10/18	5.10	MDH	168 hrs prior
6	6/19/18	7/18/18	4.80	MDH	456 hrs prior
6	9/26/18	10/15/18	4.30	MDH	192 hrs prior



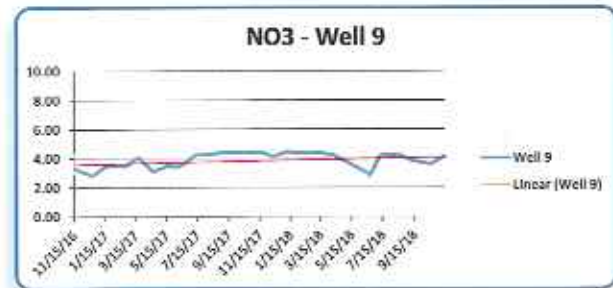
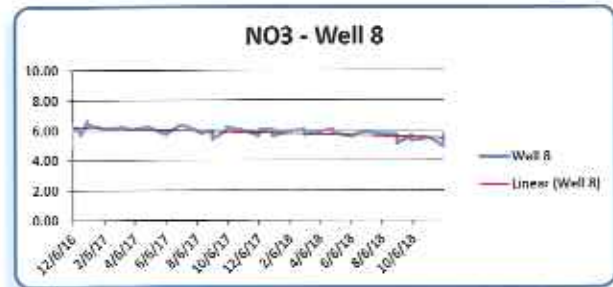
7	9/20/16	9/28/16	4.79	MVTL	216 hrs prior
7	9/20/16	10/24/16	4.50	MDH	
7	10/4/16	10/12/16	4.89	MVTL	216 hrs prior
7	11/15/16	11/21/16	4.68	MVTL	168 hrs prior
7	12/13/16	12/19/16	4.55	MVTL	240 hrs prior
7	12/13/16	2/9/17	4.00	MDH	
7	3/14/17	4/24/17	4.60	MDH	168 hrs prior
7	4/11/17	4/17/17	4.74	MVTL	168 hrs prior
7	6/1/17	7/27/17	4.80	MDH	168 hrs prior
7	6/8/17	7/27/17	4.60	MDH	168 hrs prior
7	9/12/17	10/3/17	4.20	MDH	168 hrs prior
7	12/12/17	1/8/18	3.90	MDH	168 hrs prior
7	2/13/18	3/26/18	4.60	MDH	168 hrs prior
7	6/19/18	7/18/18	4.30	MDH	456 hrs prior
7	9/18/18	10/15/18	4.80	MDH	216 hrs prior



MVTL - Minnesota Valley Testing Laboratories
MDH - Minnesota Department of Health
TCWC - Twin City Water Clinic

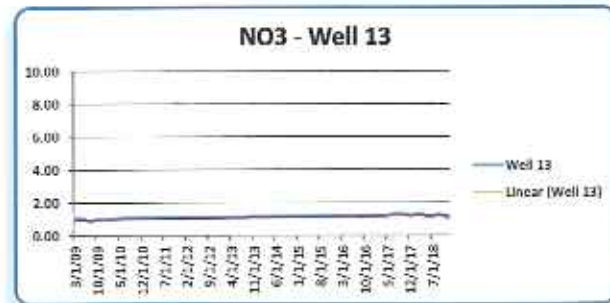
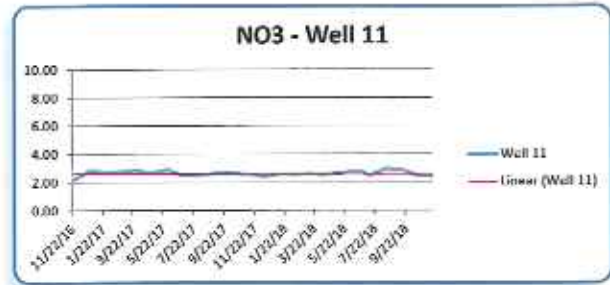
Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

Location	Sample Collected	Results Received	Results	Lab	Run Time
8	12/6/16	12/12/16	6.17	MVTL	216 hrs prior
8	12/20/16	12/27/16	5.95	MVTL	168 hrs prior
8	12/20/16	2/3/17	5.70	MDH	
8	1/3/17	1/16/17	6.89	MVTL	168 hrs prior
8	1/3/17	5/4/17	6.40	MDH	
8	2/7/17	2/14/17	6.08	MVTL	168 hrs prior
8	3/7/17	3/18/17	6.16	MVTL	168 hrs prior
8	3/7/17	4/24/17	6.20	MDH	
8	4/4/17	4/10/17	6.07	MVTL	216 hrs prior
8	5/2/17	5/10/17	6.22	MVTL	168 hrs prior
8	6/6/17	6/14/17	6.71	MVTL	168 hrs prior
8	6/6/17	7/27/17	5.80	MDH	168 hrs prior
8	7/5/17	7/20/17	6.36	MVTL	144 hrs prior
8	8/1/17	8/7/17	6.03	MVTL	216 hrs prior
8	8/14/17	10/20/17	5.80	MDH	
8	9/5/17	9/26/17	5.98	MVTL	216 hrs prior
8	9/5/17	9/26/17	5.40	MDH	
8	10/3/17	10/20/17	6.00	MVTL	168 hrs prior
8	10/3/17	11/17/17	6.20	MDH	
8	11/7/17	3/2/18	5.97	MVTL	168 hrs prior
8	12/5/17	12/22/17	5.81	MVTL	192 hrs prior
8	12/5/17	1/8/18	6.00	MDH	
8	1/2/18	1/16/18	6.07	MVTL	168 hrs prior
8	1/2/18	2/20/18	5.80	MDH	
8	2/8/18	2/20/18	5.94	MVTL	168 hrs prior
8	3/6/18	3/26/18	6.03	MVTL	168 hrs prior
8	3/6/18	3/26/18	5.70	MDH	
8	4/3/18	4/10/18	5.88	MVTL	168 hrs prior
8	5/1/18	5/3/18	6.68	MVTL	168 hrs prior
8	5/1/18	6/26/18	5.80	MDH	
8	6/5/18	6/14/18	5.59	MVTL	168 hrs prior
8	6/5/18	7/18/18	5.60	MDH	
8	7/3/18	11/19/18	6.90	MDH	
8	8/7/18	8/20/18	6.72	MVTL	168 hrs prior
8	9/4/18	10/15/18	5.72	MVTL	168 hrs prior
8	9/4/18	10/15/18	6.10	MDH	
8	10/2/18	10/15/18	6.66	MVTL	168 hrs prior
8	10/2/18	11/19/18	5.30	MDH	
8	11/6/18	11/19/18	5.51	MVTL	168 hrs prior
8	12/4/18	12/11/18	4.89	MVTL	168 hrs prior
8	12/4/18	12/26/18	5.70	MDH	
9	11/15/16	11/21/16	3.32	MVTL	168 hrs prior
9	12/20/16	12/27/16	2.81	MVTL	144 hrs prior
9	1/17/17	1/27/17	3.49	MVTL	168 hrs prior
9	2/21/17	3/3/17	3.46	MVTL	168 hrs prior
9	3/21/17	3/27/17	4.06	MVTL	168 hrs prior
9	4/18/17	4/24/17	3.09	MVTL	168 hrs prior
9	5/16/17	5/25/17	3.47	MVTL	168 hrs prior
9	6/5/17	6/28/17	3.40	MDH	168 hrs prior
9	6/20/17	6/27/17	3.69	MVTL	168 hrs prior
9	7/11/17	7/20/17	4.23	MVTL	144 hrs prior
9	8/6/17	8/14/17	4.27	MVTL	168 hrs prior
9	9/12/17	9/26/17	4.40	MVTL	132 hrs prior
9	10/10/17	10/20/17	4.38	MVTL	144 hrs prior
9	11/14/17	11/21/17	4.43	MVTL	168 hrs prior
9	12/12/17	12/27/17	4.14	MVTL	168 hrs prior
9	1/9/18	1/16/18	4.45	MVTL	168 hrs prior
9	2/13/18	2/20/18	4.33	MVTL	168 hrs prior
9	3/13/18	3/26/18	4.36	MVTL	168 hrs prior
9	4/10/18	4/18/18	4.23	MVTL	168 hrs prior
9	6/19/18	6/26/18	2.92	MVTL	96 hrs prior
9	6/19/18	7/18/18	2.80	MDH	
9	7/10/18	7/18/18	4.20	MVTL	240 hrs prior
9	8/14/18	8/20/18	4.29	MVTL	168 hrs prior
9	9/11/18	10/15/18	3.83	MVTL	168 hrs prior
9	10/16/18	11/7/18	3.61	MVTL	168 hrs prior
9	11/13/18	11/29/18	4.16	MVTL	168 hrs prior



Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

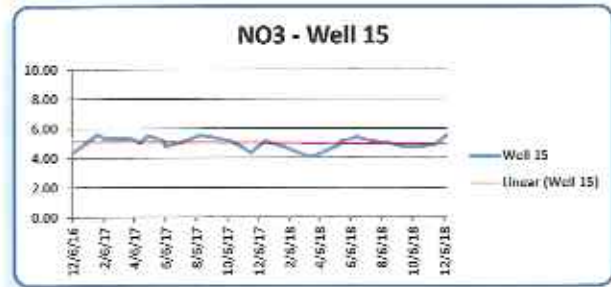
Location	Sample Collected	Results Received	Results	Lab	Run Time
10	4/17/12	4/20/12	< 1.00	TCWC	158 hrs prior
10	1/21/14	1/28/14	< 1.00	TCWC	144 hrs prior
10	3/25/14	4/1/14	3.61	MVTL	98 hrs prior
10	4/23/14	5/7/14	< 0.20	MVTL	24 hrs prior
10	4/23/14	6/16/14	< 0.05	MDH	*
10	6/16/15	6/26/15	< 0.05	MVTL	144 hrs prior
10	4/11/17	4/17/17	< 0.05	MVTL	168 hrs prior
11	11/22/16	12/1/16	2.16	MVTL	216 hrs prior
11	12/27/16	1/4/17	2.86	MVTL	168 hrs prior
11	1/24/17	2/7/17	2.72	MVTL	216 hrs prior
11	2/28/17	3/8/17	2.77	MVTL	168 hrs prior
11	3/28/17	4/3/17	2.87	MVTL	168 hrs prior
11	4/25/17	5/4/17	2.87	MVTL	216 hrs prior
11	5/23/17	5/30/17	2.83	MVTL	168 hrs prior
11	6/1/17	6/15/17	2.90	MDH	192 hrs prior
11	6/27/17	7/5/17	2.50	MVTL	168 hrs prior
11	7/11/17	7/20/17	2.50	MVTL	168 hrs prior
11	8/8/17	8/14/17	2.65	MVTL	168 hrs prior
11	9/12/17	9/26/17	2.82	MVTL	168 hrs prior
11	10/10/17	10/20/17	2.81	MVTL	144 hrs prior
11	11/14/17	11/21/17	2.67	MVTL	168 hrs prior
11	12/12/17	12/22/17	2.39	MVTL	168 hrs prior
11	1/6/18	1/16/18	2.57	MVTL	168 hrs prior
11	2/13/18	2/20/18	2.64	MVTL	168 hrs prior
11	3/13/18	3/26/18	2.69	MVTL	168 hrs prior
11	4/10/18	4/18/18	2.53	MVTL	168 hrs prior
11	6/22/18	7/18/18	2.80	MDH	24 hrs prior
11	7/10/18	7/18/18	2.48	MVTL	24 hrs prior
11	8/14/18	8/20/18	2.95	MVTL	168 hrs prior
11	9/18/18	10/15/18	2.83	MVTL	168 hrs prior
11	10/16/18	11/7/18	2.46	MVTL	168 hrs prior
11	11/13/18	11/29/18	2.41	MVTL	168 hrs prior
12	12/17/13	12/23/13	3.01	TCWC	144 hrs prior
12	1/21/14	1/29/14	1.70	TCWC	168 hrs prior
12	2/4/14	2/10/14	2.21	TCWC	144 hrs prior
12	4/23/14	5/7/14	1.27	MVTL	192 hrs prior
12	4/23/14	6/16/14	1.30	MDH	*
12	8/12/14	8/20/14	2.10	MVTL	162 hrs prior
12	9/23/14	10/2/14	2.28	MVTL	132 hrs prior
12	10/13/15	10/19/15	2.36	MVTL	126 hrs prior
12	4/11/17	4/17/17	0.92	MVTL	168 hrs prior
12	9/5/17	9/26/17	0.72	MVTL	168 hrs prior
12	12/5/17	12/22/17	0.72	MVTL	168 hrs prior
12	9/4/18	10/15/18	0.62	MVTL	168 hrs prior
12	12/4/18	12/11/18	0.58	MVTL	144 hrs prior
13	3/12/09	3/26/09	0.96	MVTL	48 hrs prior
13	4/14/09	4/27/09	1.10	MVTL	60 hrs prior
13	8/4/09	8/12/09	0.90	MVTL	1013 hrs prior
13	9/24/09	10/5/09	0.88	MVTL	51 hrs prior
13	7/14/10	7/27/10	1.07	MVTL	42 hrs prior
13	3/11/11	3/16/11	1.08	MVTL	100 hrs prior
13	4/11/17	4/17/17	1.19	MVTL	48 hrs prior
13	9/5/17	9/26/17	1.35	MVTL	126 hrs prior
13	12/5/17	12/22/17	1.20	MVTL	168 hrs prior
13	3/6/18	3/26/18	1.32	MVTL	168 hrs prior
13	6/5/18	6/14/18	1.11	MVTL	24 hrs prior
13	9/4/18	10/15/18	1.28	MVTL	168 hrs prior
13	12/4/18	12/11/18	1.08	MVTL	168 hrs prior
14	4/23/14	6/16/14	< 0.05	MDH	*
14	4/11/17	4/17/17	< 0.05	MVTL	20 hrs prior
14	9/5/17	9/26/17	< 0.05	MVTL	24 hrs prior
14	12/5/17	12/22/17	< 0.05	MVTL	168 hrs prior
14	3/6/18	3/26/18	< 0.05	MVTL	168 hrs prior
14	6/5/18	6/14/18	< 0.05	MVTL	24 hrs prior



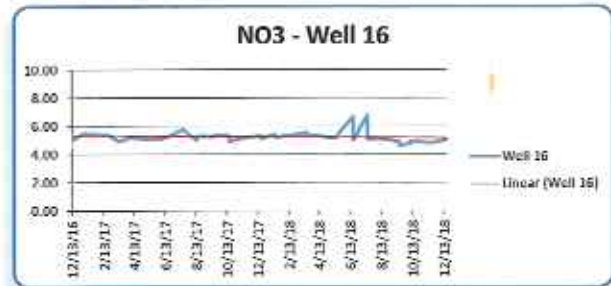
MVTL - Minnesota Valley Testing Laboratories
MDH - Minnesota Department of Health
TCWC - Twin City Water Clinic

Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

Location	Sample Collected	Results Received	Results	Lab	Run Time
16	12/6/16	12/12/16	4.38	MVTL	168 hrs prior
16	1/24/17	2/7/17	5.58	MVTL	168 hrs prior
15	2/7/17	2/14/17	5.34	MVTL	168 hrs prior
15	3/28/17	4/3/17	5.35	MVTL	168 hrs prior
16	4/18/17	4/24/17	6.08	MVTL	168 hrs prior
15	5/2/17	5/10/17	5.50	MVTL	144 hrs prior
15	6/1/17	6/15/17	6.20	MDH	168 hrs prior
16	6/6/17	6/14/17	4.80	MVTL	168 hrs prior
15	7/18/17	7/24/17	5.20	MVTL	168 hrs prior
15	8/15/17	8/21/17	5.54	MVTL	168 hrs prior
15	9/19/17	9/26/17	6.32	MVTL	168 hrs prior
16	10/17/17	11/1/17	5.10	MVTL	168 hrs prior
15	11/21/17	12/11/17	4.36	MVTL	168 hrs prior
15	12/19/17	12/27/17	6.17	MVTL	162 hrs prior
16	1/16/18	2/20/18	4.88	MVTL	168 hrs prior
15	3/20/18	3/27/18	4.94	MVTL	168 hrs prior
15	5/15/18	5/31/18	4.88	MVTL	168 hrs prior
16	5/15/18	5/31/18	5.10	MDH	
15	6/19/18	6/26/18	5.40	MVTL	408 hrs prior
15	7/17/18	8/1/18	5.16	MVTL	120 hrs prior
16	8/21/18	10/15/18	6.02	MVTL	168 hrs prior
15	9/18/18	10/15/18	4.76	MVTL	168 hrs prior
15	10/16/18	11/7/18	4.74	MVTL	168 hrs prior
16	11/20/18	11/29/18	4.88	MVTL	168 hrs prior
15	12/11/18	12/21/18	5.54	MVTL	168 hrs prior

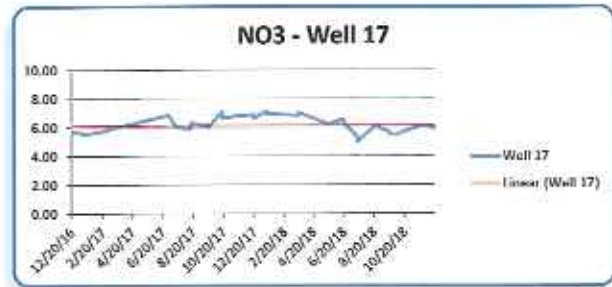


16	12/13/16	12/19/16	5.63	MVTL	312 hrs prior
16	12/13/16	2/9/17	6.00	MDH	
16	1/3/17	1/16/17	5.49	MVTL	168 hrs prior
16	2/21/17	3/3/17	5.39	MVTL	168 hrs prior
16	3/14/17	4/24/17	4.90	MDH	168 hrs prior
16	4/4/17	4/10/17	5.17	MVTL	168 hrs prior
16	5/16/17	5/25/17	5.07	MVTL	168 hrs prior
16	6/6/17	7/27/17	6.10	MDH	168 hrs prior
16	7/18/17	7/24/17	5.72	MVTL	168 hrs prior
16	8/14/17	10/20/17	5.00	MDH	
16	8/15/17	8/21/17	6.28	MVTL	168 hrs prior
16	8/19/17	9/28/17	5.25	MVTL	168 hrs prior
16	9/19/17	10/20/17	5.40	MDH	
16	10/17/17	11/1/17	6.29	MVTL	168 hrs prior
16	10/17/17	3/9/18	4.90	MDH	
16	11/21/17	12/11/17	5.21	MVTL	168 hrs prior
16	12/19/17	12/27/17	5.29	MVTL	192 hrs prior
16	12/19/17	2/20/18	6.10	MDH	
16	1/16/18	2/20/18	5.44	MVTL	168 hrs prior
16	1/16/18	3/9/18	5.29	MDH	
16	3/20/18	3/27/18	6.63	MVTL	168 hrs prior
16	3/20/18	5/31/18	5.40	MDH	
16	5/15/18	5/31/18	5.14	MVTL	168 hrs prior
16	5/15/18	6/26/18	6.20	MDH	
16	6/19/18	6/26/18	6.65	MVTL	408 hrs prior
16	6/19/18	7/18/18	5.00	MDH	
16	7/17/18	8/17/18	6.76	MVTL	408 hrs prior
16	7/17/18	11/19/18	5.10	MDH	
16	9/18/18	10/15/18	4.87	MVTL	168 hrs prior
16	9/18/18	10/15/18	4.60	MDH	
16	10/9/18	10/15/18	4.79	MVTL	168 hrs prior
16	10/9/18	11/19/18	4.90	MDH	
16	8/21/18	10/15/18	5.09	MVTL	192 hrs prior
16	11/20/18	11/29/18	4.81	MVTL	168 hrs prior
16	12/18/18	12/26/18	6.06	MVTL	192 hrs prior

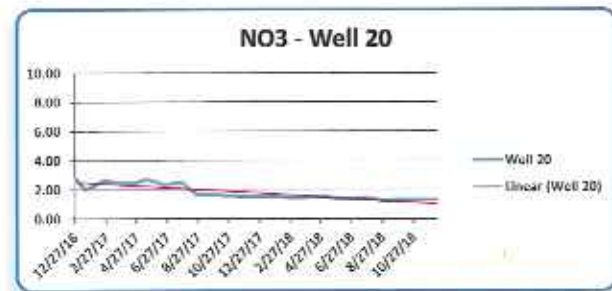


Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

Location	Sample Collected	Results Received	Results	Lab	Run Time
17	12/20/16	12/27/16	5.53	MVTL	192 hrs prior
17	12/20/16	2/9/17	6.70	MDH	
17	1/10/17	1/20/17	6.81	MVTL	168 hrs prior
17	1/10/17	5/4/17	5.50	MDH	
17	2/28/17	3/8/17	6.76	MVTL	168 hrs prior
17	3/7/17	3/18/17	6.05	MVTL	168 hrs prior
17	3/7/17	4/24/17	5.90	MDH	
17	6/30/17	7/27/17	6.80	MDH	168 hrs prior
17	7/18/17	7/24/17	6.97	MVTL	168 hrs prior
17	8/14/17	10/20/17	5.90	MDH	
17	8/15/17	8/21/17	6.27	MVTL	168 hrs prior
17	9/19/17	9/26/17	6.13	MVTL	168 hrs prior
17	9/19/17	10/20/17	6.00	MDH	
17	10/17/17	11/17/17	7.05	MVTL	168 hrs prior
17	10/17/17	3/9/18	6.60	MDH	
17	11/21/17	12/11/17	6.79	MVTL	168 hrs prior
17	12/19/17	12/27/17	6.85	MVTL	192 hrs prior
17	12/19/17	2/20/18	6.60	MDH	
17	1/16/18	2/20/18	7.12	MVTL	168 hrs prior
17	1/16/18	3/9/18	6.90	MDH	
17	3/20/18	5/31/18	6.80	MDH	
17	3/20/18	3/27/18	7.00	MVTL	168 hrs prior
17	5/15/18	5/31/18	6.27	MVTL	168 hrs prior
17	5/15/18	6/26/18	6.20	MDH	
17	6/19/18	6/26/18	6.62	MVTL	408 hrs prior
17	8/19/18	7/18/18	6.30	MDH	
17	7/17/18	8/17/18	5.30	MVTL	408 hrs prior
17	7/17/18	11/19/18	6.00	MDH	
17	8/21/18	10/15/18	6.10	MVTL	168 hrs prior
17	9/18/18	10/15/18	5.70	MVTL	168 hrs prior
17	9/18/18	10/15/18	6.60	MDH	
17	10/9/18	10/15/18	6.50	MVTL	168 hrs prior
17	10/9/18	11/19/18	5.80	MDH	
17	11/20/18	11/29/18	6.13	MVTL	168 hrs prior
17	12/18/18	12/26/18	6.97	MVTL	168 hrs prior

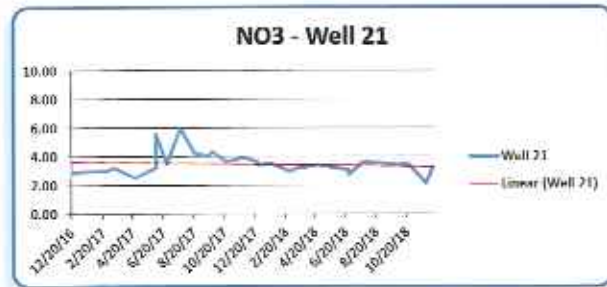


20	12/27/16	1/4/17	2.79	MVTL	168 hrs prior
20	1/17/17	1/27/17	1.97	MVTL	168 hrs prior
20	2/21/17	3/3/17	2.60	MVTL	168 hrs prior
20	3/21/17	3/27/17	2.47	MVTL	168 hrs prior
20	4/18/17	4/24/17	2.40	MVTL	168 hrs prior
20	5/16/17	5/25/17	2.68	MVTL	168 hrs prior
20	6/5/17	6/28/17	2.50	MDH	144 hrs prior
20	6/20/17	6/27/17	2.30	MVTL	168 hrs prior
20	7/25/17	8/11/17	2.49	MVTL	144 hrs prior
20	8/22/17	8/28/17	1.67	MVTL	192 hrs prior
20	9/26/17	10/4/17	1.61	MVTL	168 hrs prior
20	10/24/17	11/17/17	1.66	MVTL	168 hrs prior
20	11/28/17	12/11/17	1.51	MVTL	168 hrs prior
20	12/28/17	1/9/18	1.46	MVTL	168 hrs prior
20	1/23/18	2/20/18	1.61	MVTL	168 hrs prior
20	2/7/18	3/9/18	1.41	MVTL	168 hrs prior
20	3/27/18	4/10/18	1.43	MVTL	168 hrs prior
20	4/24/18	5/9/18	1.49	MVTL	168 hrs prior
20	5/22/18	5/31/18	1.42	MVTL	168 hrs prior
20	5/22/18	8/14/18	1.40	MDH	
20	6/26/18	7/2/18	1.39	MVTL	72 hrs prior
20	7/24/18	8/17/18	1.42	MVTL	576 hrs prior
20	8/28/18	10/15/18	1.24	MVTL	192 hrs prior
20	9/25/18	10/15/18	1.30	MVTL	168 hrs prior
20	10/23/18	11/7/18	1.30	MVTL	216 hrs prior
20	12/11/18	12/21/18	1.29	MVTL	168 hrs prior

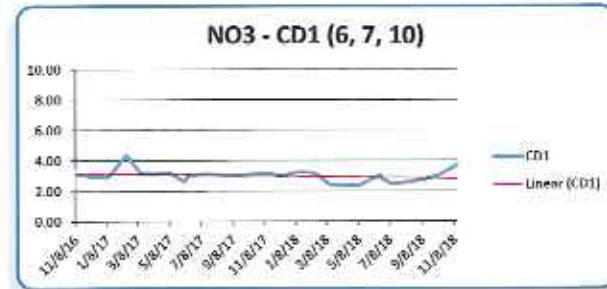


Shakopee Public Utilities Commission
 Water Department
 Nitrate Results
 Reported in mg/L

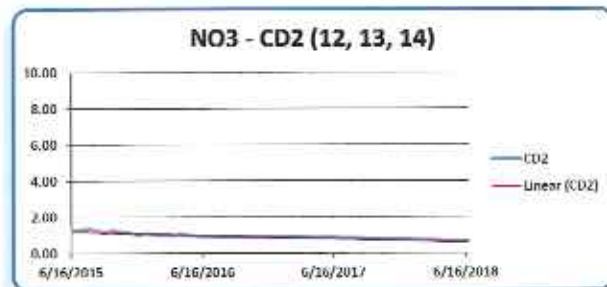
Location	Sample Collected	Results Received	Results	Lab	Run Time
21	12/20/16	12/27/16	2.94	MVTL	144 hrs prior
21	12/20/16	2/9/17	2.90	MDH	
21	1/24/17	2/7/17	2.97	MVTL	168 hrs prior
21	2/28/17	3/8/17	2.98	MVTL	168 hrs prior
21	3/14/17	4/24/17	3.20	MDH	168 hrs prior
21	4/25/17	5/4/17	2.48	MVTL	168 hrs prior
21	6/6/17	6/28/17	3.20	MDH	144 hrs prior
21	6/6/17	7/27/17	6.50	MDH	
21	6/27/17	7/5/17	3.48	MVTL	168 hrs prior
21	7/25/17	8/1/17	5.90	MVTL	144 hrs prior
21	8/22/17	8/28/17	4.18	MVTL	192 hrs prior
21	9/19/17	10/20/17	4.00	MDH	
21	8/28/17	10/4/17	4.29	MVTL	168 hrs prior
21	10/24/17	11/7/17	3.61	MVTL	168 hrs prior
21	11/28/17	12/11/17	3.90	MVTL	168 hrs prior
21	12/26/17	1/9/18	3.58	MVTL	168 hrs prior
21	12/26/17	2/20/18	3.40	MDH	
21	1/23/18	2/20/18	3.49	MVTL	168 hrs prior
21	2/27/18	3/9/18	2.95	MVTL	168 hrs prior
21	3/27/18	4/10/18	3.28	MVTL	168 hrs prior
21	3/27/18	5/31/18	3.20	MDH	
21	4/24/18	5/9/18	3.40	MVTL	168 hrs prior
21	5/22/18	5/31/18	3.30	MVTL	168 hrs prior
21	5/22/18	6/14/18	3.20	MDH	
21	6/26/18	7/2/18	3.07	MVTL	240 hrs prior
21	8/28/18	8/17/18	2.70	MDH	
21	7/24/18	8/17/18	3.60	MVTL	576 hrs prior
21	8/28/18	10/15/18	3.64	MVTL	168 hrs prior
21	9/25/18	10/15/18	3.45	MVTL	216 hrs prior
21	9/26/18	10/15/18	3.40	MDH	
21	10/23/18	11/7/18	3.49	MVTL	168 hrs prior
21	11/27/18	12/5/18	2.13	MVTL	192 hrs prior
21	12/11/18	12/21/18	3.28	MVTL	168 hrs prior



Combined Discharge - Wells 6-7-10					
CD 1	11/8/16	11/17/16	3.14	MVTL	360 hrs prior
CD 1	12/13/16	12/18/16	2.95	MVTL	168 hrs prior
CD 1	1/10/17	1/20/17	2.96	MVTL	168 hrs prior
CD 1	2/14/17	3/6/17	4.35	MVTL	168 hrs prior
CD 1	3/14/17	3/23/17	3.11	MVTL	168 hrs prior
CD 1	4/11/17	4/17/17	3.11	MVTL	120 hrs prior
CD 1	5/9/17	5/25/17	3.19	MVTL	212 hrs prior
CD 1	6/9/17	6/28/17	2.60	MDH	168 hrs prior
CD 1	6/13/17	6/20/17	3.03	MVTL	168 hrs prior
CD 1	7/11/17	7/20/17	3.12	MVTL	168 hrs prior
CD 1	8/8/17	8/14/17	3.08	MVTL	168 hrs prior
CD 1	9/12/17	9/26/17	3.03	MVTL	168 hrs prior
CD 1	10/10/17	10/20/17	3.99	MVTL	168 hrs prior
CD 1	11/14/17	11/21/17	3.16	MVTL	168 hrs prior
CD 1	12/12/17	12/22/17	3.00	MVTL	168 hrs prior
CD 1	1/9/18	1/18/18	3.23	MVTL	168 hrs prior
CD 1	2/13/18	2/20/18	3.18	MVTL	168 hrs prior
CD 1	3/13/18	3/26/18	2.42	MVTL	168 hrs prior
CD 1	5/8/18	5/31/18	2.36	MVTL	168 hrs prior
CD 1	6/19/18	6/28/18	3.05	MVTL	168 hrs prior
CD 1	6/19/18	7/18/18	2.90	MDH	
CD 1	7/10/18	7/18/18	2.46	MVTL	240 hrs prior
CD 1	8/14/18	8/20/18	2.59	MVTL	168 hrs prior
CD 1	9/11/18	10/15/18	2.78	MVTL	168 hrs prior
CD 1	10/9/18	10/15/18	3.06	MVTL	168 hrs prior
CD 1	11/13/18	11/29/18	3.68	MVTL	168 hrs prior



Combined Discharge - Wells 12-13-14					
CD 2	6/16/2015	6/26/2015	1.28	MVTL	120 hrs prior
CD 2	8/4/2015	8/10/2015	1.36	MVTL	168 hrs prior
CD 2	9/15/2015	9/22/2015	1.16	MVTL	144 hrs prior
CD 2	10/8/2015	10/14/2015	1.25	MVTL	208 hrs prior
CD 2	12/22/2015	12/30/2015	1.03	MVTL	168 hrs prior
CD 2	1/5/2016	1/13/2016	1.08	MVTL	192 hrs prior
CD 2	2/23/2016	2/29/2016	1.03	MVTL	208 hrs prior
CD 2	3/22/2016	3/28/2016	0.96	MVTL	268 hrs prior
CD 2	4/12/2016	4/19/2016	1.07	MVTL	120 hrs prior
CD 2	5/10/2016	5/18/2016	0.98	MVTL	165 hrs prior
CD 2	5/10/2016	6/2/2016	0.97	MDH	
CD 2	7/17/2016	7/18/2016	0.93	MVTL	170 hrs prior
CD 2	10/11/2016	10/17/2016	0.87	MVTL	168 hrs prior
CD 2	11/8/2016	11/17/2016	0.91	MVTL	168 hrs prior
CD 2	1/10/2017	1/20/2017	0.92	MVTL	216 hrs prior
CD 2	4/11/2017	4/17/2017	0.85	MVTL	144 hrs prior
CD 2	6/8/2017	6/28/2017	0.88	MDH	144 hrs prior
CD 2	6/22/2018	7/18/2018	0.67	MDH	528 hrs prior





MVTL - Minnesota Valley Testing Laboratories
 MDH - Minnesota Department of Health
 TWCC - Twin City Water Clinic

Shakopee Public Utilities Commission
Water Department
Nitrate Results
Reported in mg/L

Location	Sample Collected	Results Received	Results	Lab	Run Time
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MVPL - Minnesota Valley Testing Laboratories
MDH - Minnesota Department of Health
TCWC - Twin City Water Clinic

SHAKOPEE PUBLIC UTILITIES
MEMORANDUM

TO: John R. Crooks, Utilities Manager 
FROM: Lon R. Schemel, Water Superintendent 
SUBJECT: **WEBSITE UPDATE**
DATE: January 4, 2019

This update is for August 31, 2018, to January 4, 2019.

We now have enough data in Google Analytics to compare previous periods with previous years. These Google Analytics pages are compared to the previous year's period from August 31, 2017, to January 4, 2018.

There were 36 Commission videos viewed during this period.



SiteLock, the global leader in [website security](#), protects you from hackers, spam, viruses, and scams, [removes malware](#), and provides [PCI Compliance](#).

SiteLock has verified this website: 01/04/2019

spucweb.com



Company Name

Shakopee Public Utilities

Domain

spucweb.com

Address



Verified spam-free

01/04/2019

Verified malware-free

01/04/2019

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Malware & Threats



FIX

Website Issues



PREVENT

Website Attacks



ACCELERATE

Performance



COMPLY

with PCI

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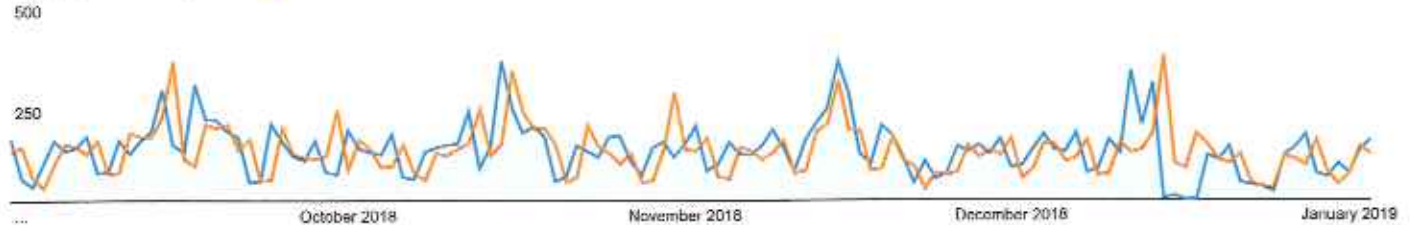
Audience Overview

All Users
+0.00% Users

Aug 31, 2018 - Jan 3, 2019
Compare to: Aug 31, 2017 - Jan 3, 2018

Overview

Aug 31, 2018 - Jan 3, 2019: ● Users
Aug 31, 2017 - Jan 3, 2018: ● Users



Users

2.10%
9,962 vs 9,757



New Users

0.99%
8,132 vs 8,052



Sessions

2.60%
17,104 vs 16,671



Number of Sessions per User

0.49%
1.72 vs 1.71



Pageviews

-21.86%
27,995 vs 35,828



Pages / Session

-23.84%
1.64 vs 2.15



Avg. Session Duration

-13.73%
00:01:52 vs 00:02:09



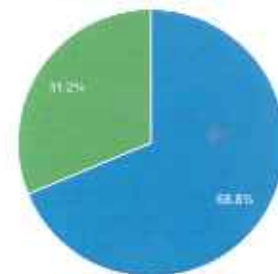
Bounce Rate

41.02%
38.69% vs 27.44%

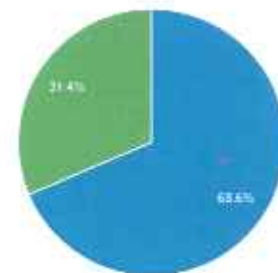


■ New Visitor ■ Returning Visitor

Aug 31, 2018 - Jan 3, 2019



Aug 31, 2017 - Jan 3, 2018



Language

Users % Users

1. en-us

Aug 31, 2018 - Jan 3, 2019

9,719 97.69%

Aug 31, 2017 - Jan 3, 2018

9,595 98.36%

% Change

1.29% -0.68%

2. en-gb

Aug 31, 2018 - Jan 3, 2019

47 0.47%

Aug 31, 2017 - Jan 3, 2018

59 0.60%

% Change

-20.34% -21.89%

3. fr-fr

Aug 31, 2018 - Jan 3, 2019

30 0.30%

Aug 31, 2017 - Jan 3, 2018

1 0.01%

% Change

2,900.00% 2,841.50%

4. fr

Aug 31, 2018 - Jan 3, 2019

91 0.91%

Aug 31, 2018 - Jan 3, 2019	1	0.01%
Aug 31, 2017 - Jan 3, 2018	1	0.01%
% Change	2,000.00%	1,959.05%
5. pt-br		
Aug 31, 2018 - Jan 3, 2019	21	0.21%
Aug 31, 2017 - Jan 3, 2018	2	0.02%
% Change	950.00%	929.53%
6. c		
Aug 31, 2018 - Jan 3, 2019	16	0.16%
Aug 31, 2017 - Jan 3, 2018	2	0.02%
% Change	700.00%	684.40%
7. es-419		
Aug 31, 2018 - Jan 3, 2019	14	0.14%
Aug 31, 2017 - Jan 3, 2018	9	0.09%
% Change	55.56%	52.52%
8. en		
Aug 31, 2018 - Jan 3, 2019	12	0.12%
Aug 31, 2017 - Jan 3, 2018	6	0.06%
% Change	100.00%	96.10%
9. es-es		
Aug 31, 2018 - Jan 3, 2019	12	0.12%
Aug 31, 2017 - Jan 3, 2018	2	0.02%
% Change	500.00%	488.30%
10. en-in		
Aug 31, 2018 - Jan 3, 2019	7	0.07%
Aug 31, 2017 - Jan 3, 2018	2	0.02%
% Change	250.00%	243.18%

Users Flow

Aug 31, 2018 - Jan 3, 2019
Compare to: Aug 31, 2017 - Jan 3, 2018

All Users
+0.00% Sessions

Country

United States
17K ▲2%

India
109 ▼24%

Germany
55 ▲>500%

China
38 ▲11%

(not set)
24 ▼50%

200 ▲47%



Network Referrals

Aug 31, 2018 - Jan 3, 2019
Compare to: Aug 31, 2017 - Jan 3, 2018

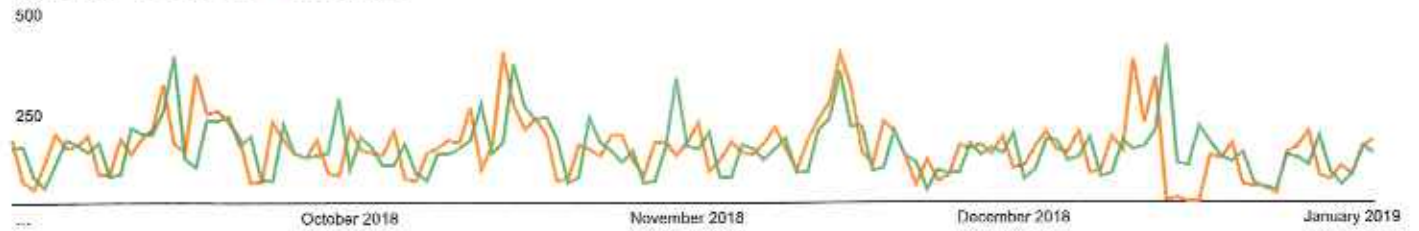
All Users
+0.00% Sessions

Social Referral

Aug 31, 2018 - Jan 3, 2019: Sessions via Social Referral
Aug 31, 2017 - Jan 3, 2018: Sessions via Social Referral



Aug 31, 2018 - Jan 3, 2019: All Sessions
Aug 31, 2017 - Jan 3, 2018: All Sessions



Social Network

1. Facebook

	Sessions	Pageviews	Avg. Session Duration	Pages / Session
Aug 31, 2018 - Jan 3, 2019	42 (100.00%)	62 (100.00%)	00:00:45	1.48
Aug 31, 2017 - Jan 3, 2018	14 (100.00%)	41 (100.00%)	00:04:18	2.93
% Change	200.00%	51.22%	-92.52%	-49.59%

Rows 1 - 1 of 1

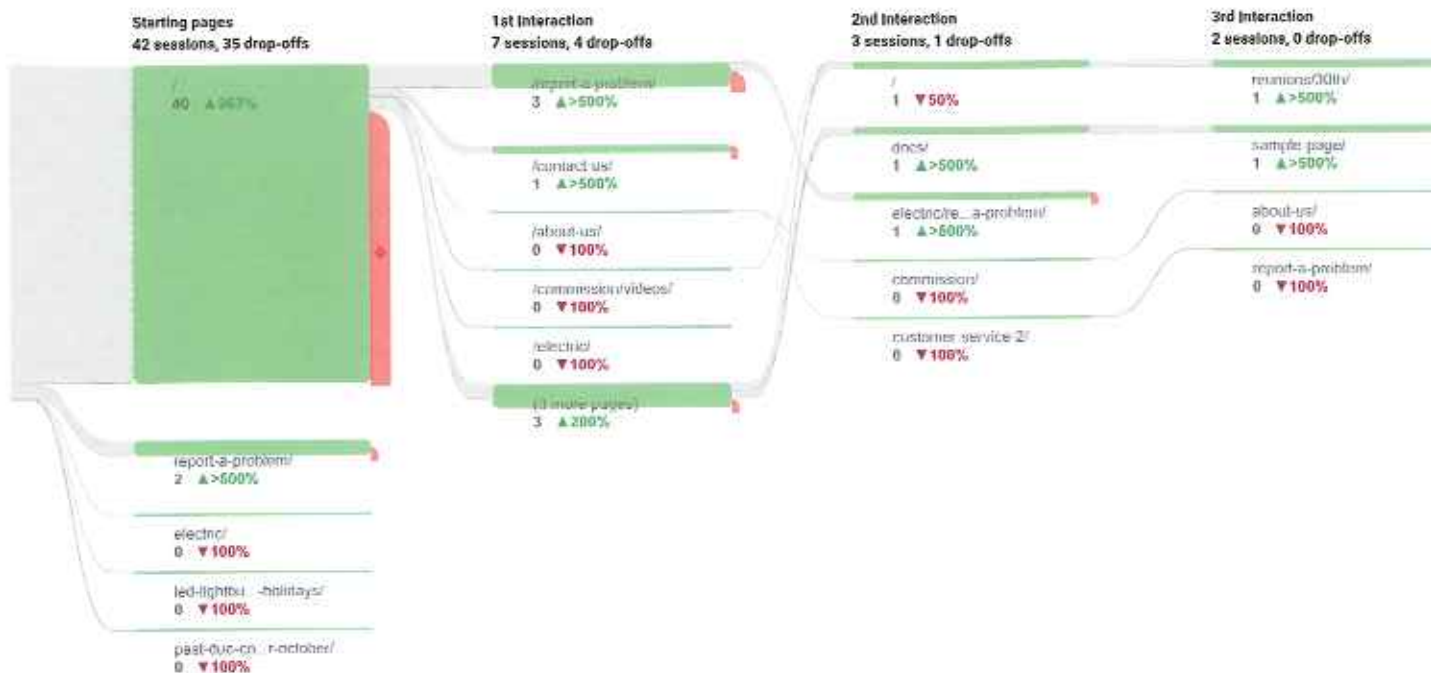
Social Users Flow

Aug 31, 2018 - Jan 3, 2019
Compare to: Aug 31, 2017 - Jan 3, 2018

All Users
+0.00% Sessions

Social Network

Facebook
42 ▲200%

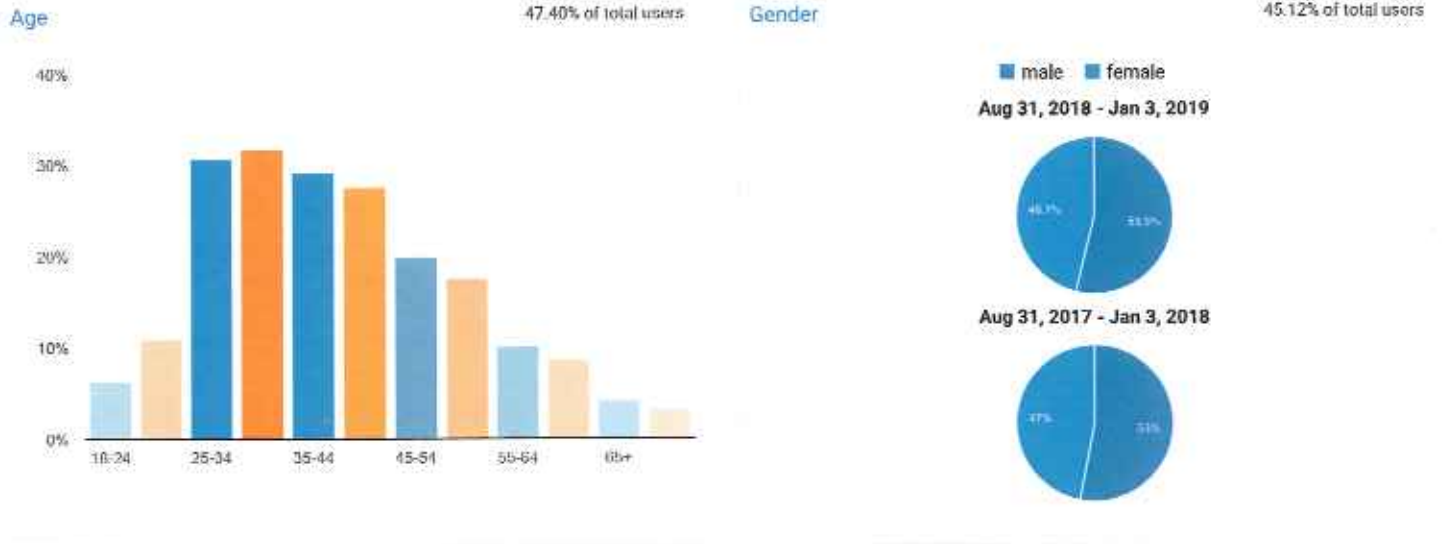


Demographics: Overview

All Users
+0.00% Users

Aug 31, 2018 - Jan 3, 2019
Compare to: Aug 31, 2017 - Jan 3, 2018

Key Metric:





9b

SHAKOPEE PUBLIC UTILITIES

“Lighting the Way – Yesterday, Today and Beyond”

January 2, 2019

TO: John Crooks, Utilities Manager 
FROM: Greg Drent, Electric Superintendent 
Subject: LED Street Lights

I am pleased to announce that the planned streetlight change-out in Shakopee is now complete. As part of the 2018 budget, we planned to change-out 1550 streetlights in Shakopee to LED using the conservation fund to pay 75% and the operation fund to pay the remaining 25%. This project helps us reduce the number of Kwhrs we donate to light up the city streets. This was also a great way for us to use our conservation fund and get energy savings for our community. The project had a budget of \$720,000.00 and it came in under budget by \$110,000.00 with the majority of the savings being in the purchase of the fixtures.

We knew this was going to be a big project to complete with all the other projects we have going on so I challenged the electric crews to get the 1550 lights installed in 2018, as this was in the 2018-budget. The project took us 1672 hours to complete. The crews worked a few Saturdays and every other spare minute they had available to complete the project. On Wednesday December 26, 2018, the last LED light was installed. The old fixtures were scraped out and we got \$2820.45 for the old fixtures. I am proud of the lineman that took on the challenge to get this done for us in 2018 and I am very pleased with the results.

There are areas in the city that we did not make the change to LED lights due to being part of special lighting districts (different light-styles, incorrect pole size in Southbridge) and upcoming planned city projects.

Special Lighting Districts:

- Downtown: 167 acorn-style and shoebox-style (city is converting both styles to LED)
- Southbridge: 181 acorn-style (we already replaced about a dozen not included in the 181)
- Stonebrooke: 16 acorn-style

City CIP Program:


- Alley Reconstruction – 2020 – only lighting on Holmes (from 1st to 2nd) and on 2nd (from Holmes to Lewis)
- Downtown ADA, Lighting and Tree Rehab – 2020

If any street lighting projects come up, we will be happy to assist the City in getting the remainder of the lights changed to LED in these areas.

Post Office Box 470 • 255 Sarazin Street • Shakopee, Minnesota 55379-0470
(952) 445-1988 • Fax (952) 445-7767 • www.spucweb.com



**SHAKOPEE PUBLIC UTILITIES
MEMORANDUM**

TO: SHAKOPEE PUBLIC UTILITIES COMMISSION
FROM: JOHN R. CROOKS, UTILITIES MANAGER 
SUBJECT: 2018 CHARITABLE DONATIONS REVIEW
DATE: DECEMBER 27, 2018

With the adoption of the Donation Policy on November 5, 2012, the Commission agreed that we as Shakopee Public Utilities have a goal to engage, support and improve the programs that foster growth and development of youth, provide sponsorship of causes that help the underprivileged and those that concentrate on civic and community development.

The policy states *"the Utilities Manager will present the yearly donation recipients and their donation amounts to the Commission in January of each year."*

Attached is the list of monetary donations made in the Commission's behalf for the calendar year 2018.

Thank You.

**Shakopee Public Utilities Commission
Charitable Donations - 2018**

	ORGANIZATION	DOLLARS
January	American Cancer Society - Shakopee Drive	250
January	Restoration Project International - Shakopee	250
January	Shakopee Educational Endowment	500
January	Shakopee Rotary Foundation - Fundraiser	500
February	Minnesota Special Olympics - Polar Plunge	500
February	Saints Foundation	4000
April	Esperanza	1000
April	Southern Valley Alliance for Battered Women	500
June	Rev. Pond Statue Committee	4000
July	Shakopee Diversity Alliance	1000
July	Relay For Life	1000
Sept	CAP Agency	1000
Oct	Kid's Voting	500
Dec	Shakopee Sr. Grad Party	500
Dec	Dollars For Scholars	1000
Dec	Shakopee Community Assistance	1000
Dec	Haven Acres	500
	TOTAL	\$18,000

SHAKOPEE PUBLIC UTILITIES COMMISSION

DONATIONS POLICY

The primary purpose of the donations policy is to assist charitable, educational and civic organizations within the Shakopee Public Utilities service area or which serve community needs within the service area. As a public utility, SPUC exists to serve its customers and its community.

At SPUC, we know that a community's energy does not always arrive through the power lines. It also comes from actions and efforts of those who live there. Our goal is to engage, support and improve the programs that foster growth and development of youth, provide sponsorship of causes that help the underprivileged and those that concentrate on civic and community development.

To achieve maximum impact in helping address the needs of our community, our donations policy focuses on the following 5 areas:

- 1. Education and Youth Development**
- 2. Community Vitality and Enrichment**
- 3. Culture and Fine Arts**
- 4. Health and Human Services**
- 5. Environmental Stewardship**

Donations will be guided under the direction of the Utilities Manager. The Commission has designated up to \$20,000 annually for donations to the worthwhile causes that focus on the areas listed above.

The Utilities Manager may disburse, in the Commission's behalf, amounts up to \$1000. The Commission itself can choose to designate recipients if so desired. If the Utilities Manager or Commission request an amount exceeding \$1000, the Commission must approve such a donation.

The Utilities Manager will present the yearly donation recipients and their donation amounts to the Commission in January of each year.



11b

SHAKOPEE PUBLIC UTILITIES

“Lighting the Way – Yesterday, Today and Beyond”

January 3, 2019

TO: John Crooks, Utilities Manager *JJC*

FROM: Renee Schmid, Director of Finance and Administration *RS*

SUBJECT: Competitive Bidding Requirements

Background

The Commission previously discussed the increase in competitive bidding requirements for contracts from \$100,000 to \$175,000 as of August 1, 2018. The specific requirements for competitive bidding are included in the attachment to this memo as published by the League of Minnesota Cities. A summary of the requirements of the competitive bidding requirement statute are as follows:

- The competitive bidding law applies to contracts for the sale, purchase, or rental of supplies, materials, or equipment and contracts for the construction, alteration, repair, or maintenance of real or personal property. The estimated price of the contract also determines if the competitive bidding process is required.
- Contract entered into on or after August 1, 2018 exceeding the estimated price of \$175,000 must use the competitive bidding process.
- Contracts exceeding \$25,000 but not \$175,000 as of August 1, 2018 may be done through direct negotiation provided at least two quotes are obtained. Contracts within this range are not required to use the competitive bidding process, however, SPU has the option of using the competitive bidding process for contracts within these ranges.
- For contracts estimated at \$25,000 or less, SPU has the discretion to make the contract by obtaining at least two quotations or it may simply buy or sell the item on the “open market”.

It has been SPU’s practice to follow Minnesota State Statute requirements for competitive bidding requirements.

Recommendation and Requested Action

Staff recommends that SPU continue to follow the State of Minnesota Competitive Bidding requirements as outlined in the attachment published by the League of Minnesota Cities and requests that the commission accept this recommendation.



INFORMATION MEMO

Competitive Bidding Requirements in Cities

Learn what types of contracts are subject to competitive bidding requirements; the methods of best value and joint contracting; and the exemptions, exceptions, and alternatives to competitive bidding. Learn about preparing bid specifications and advertising, opening, and investigating bids. Find out about permitted changes after bid award and when a city needs to require performance and payment bonds. Contains sample bid advertisement and sample outline for a request for proposals (RFP).

RELEVANT LINKS:

[Minn. Stat. § 471.345.](#)
[Minn. Stat. § 412.311.](#)
Home rule charter cities generally have a charter provision requiring that a contract that must be competitively bid must be awarded to the lowest responsible bidder or other similar term.

[Minn. Stat. § 471.345, subd. 6.](#)
[A.G. Op. 430 \(Dec. 29, 1981\).](#)

[Minn. Stat. § 429.041, subd. 1.](#)
See LMC information memo, [Special Assessment Toolkit](#).

[Foley Bros., Inc. v. Marshall](#), 266 Minn. 259, 123 N.W.2d 387 (1963). [R.E. Short Co. v. City of Minneapolis](#), 269 N.W.2d 331 (Minn. 1978). [Griswold v. Ramsey County](#), 242 Minn. 529, 65 N.W.2d 647 (1954).

I. Competitive bidding law

The uniform municipal contracting law (competitive bidding law) requires cities to use the competitive bidding process for certain contracts estimated to exceed a dollar threshold. Typically, this involves the solicitation of sealed bids and the award of the contract to the “lowest responsible bidder.” The law makes no distinction based on the funds from which payments will be made. For example, a contract that will be paid from municipal liquor store revenues must be competitively bid if the estimated cost is expected to exceed the bidding threshold.

The competitive bidding law generally supersedes all inconsistent laws and charter provisions. A city may, however, need to comply with additional statutory requirements. For example, the competitive bidding process for local improvement projects that are paid for with special assessments has additional requirements. It is important to review any additional requirements that apply to a particular type of contract before beginning the competitive bidding process.

A. Purpose

The competitive bidding law serves three general purposes. First, it is intended to ensure city taxpayers receive the benefit of the lowest obtainable price from a responsible contractor. Second, competitive bidding provides contractors a level playing field on which to compete for city contracts. Third, it limits the discretion of contract-making officials in situations that are susceptible to fraud, favoritism, or other similar abuses.

B. Contracts subject to competitive bidding

When this memo uses the term “contract,” it is only describing agreements subject to the competitive bidding law.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[Minn. Stat. § 471.345, subd. 2.](#)

2018 Minn. Laws ch. 107 amending [Minn. Stat. § 471.345, subd. 3.](#) See Section II. *Procedure.*

2018 Minn. Laws ch. 107 amending [Minn. Stat. § 471.345, subd. 4.](#)

Griswold v. Ramsey County. 242 Minn. 529, 65 N.W.2d 647 (1954).

[Minn. Stat. § 471.345, subd. 5.](#)

There are two elements that determine if the competitive bidding law applies to a particular contract: the type of contract and its estimated price.

1. Types of contracts

The competitive bidding law applies to:

- Contracts for the sale, purchase, or rental of supplies, materials, or equipment.
- Contracts for the construction, alteration, repair, or maintenance of real or personal property.

2. Estimated price

The estimated price of the contract also determines if the competitive bidding process is required.

a. Contracts over \$175,000

City contracts entered into on or after Aug. 1, 2018 exceeding the estimated price of \$175,000 must use the competitive bidding process.

b. Contracts exceeding \$25,000 but not \$175,000

For city contracts entered into on or after Aug. 1, 2018, competitive bidding is not required on contracts that exceed \$25,000 but do not exceed \$175,000. However, competitive bidding on contracts in this price range is allowed. So, the city has the option of either using the competitive bidding process or making the contract by direct negotiation. If the city chooses to use the competitive bidding process, it must likely comply with the requirements of this process even though it was not originally required. If direct negotiation is used, the city must get at least two quotations when possible and keep them on file for at least one year.

c. Contracts \$25,000 or less

If the price of the contract is estimated to be \$25,000 or less, the city has discretion to make the contract by obtaining quotations or it may simply buy or sell the item on the “open market.” If the city chooses to use quotations for the contract, it shall be based, as far as practicable, on at least two quotations which shall be kept on file for at least one year.

RELEVANT LINKS:

A.G. Op. 707-A-4 (Apr. 29, 1952).

A.G. Op. 707a-7 (Mar. 14, 1988).

A.G. Op. 707A-15 (Jan. 29, 1962).
Minn. Stat. § 471.345.

d. Calculating estimated contract price

Because the competitive bidding law applies to the estimated contract price, it can sometimes be difficult to determine whether a specific contract is subject to the law.

(1) Splitting contracts

Generally, the competitive bidding process may not be avoided by splitting a contract into several smaller contracts, each of which is under the competitive bidding threshold. A court will probably find a contract to be void if it is split for the purpose of avoiding the competitive bidding process.

It may be appropriate, however, to enter into two separate contracts for materials or work if they involve separate transactions. An example of this might be when the services of different specialty contractors are necessary to complete a particular project. In such a case, there appears to be no reason why the work or material may not be contracted for without advertising for bids if each of the contracts does not exceed the competitive bidding threshold.

Another example might be two separate contracts for different sidewalk improvements, each involving less than the competitive bidding threshold. In this situation, it appears the contracts could be let without advertising for bids if the two contracts involve separate improvements on two different streets. It will usually be more advantageous, however, to combine like improvements in a single contract, and this will probably result in the total contract amount being large enough to require competitive bidding.

Similar considerations apply in determining whether it is possible to purchase materials and contract for labor separately. The Minnesota Supreme Court has not considered this question. Whether facts support splitting a contract in a given situation must be determined on a case-by-case basis after consulting the city attorney.

(2) Used equipment and trade-in value

Bids must be solicited if the contract's cost is estimated to exceed the competitive bidding threshold even when used items are being purchased. The competitive bidding law does not distinguish between new and used supplies, material, or equipment.

If the city will be trading in old equipment when purchasing replacement equipment, the trade-in value should not be subtracted when calculating the contract price to determine whether competitive bidding is required. In short, the contract price will be the total cash value of the new item, not the total that is paid after the trade-in is made.

RELEVANT LINKS:

Minn. Stat. Ch. 297A.

Minn. Stat. § 471.59.
Handbook,
*Intergovernmental
Cooperation.*

Handbook, *Expenditures,
Purchasing, and Contracts.*

A.G. Op. 1007 (Mar. 22,
1971).

Minnesota's Cooperative
Purchasing Venture (CPV).

(3) Sales tax

Cities should probably include the cost of sales tax when estimating the amount of a construction contract. This will result in a closer estimate of the total cost of a construction project.

Sales tax on materials, as well as withholdings for the contractor's workers, will be included by the bidder in the total amount for a construction contract.

Although it is unclear whether sales tax should also be included when estimating the cost of a contract to purchase equipment, cities may wish to include this amount. For example, suppose a city is going to purchase office equipment priced at exactly \$175,000 without sales tax and the city opts not to use the competitive bidding process because the amount does not *exceed* \$175,000. The addition of the sales tax, however, brings the amount to more than \$175,000. It is possible someone could argue that the contract should have been let using the competitive bidding process.

C. Joint contracting

Governmental entities may jointly contract to undertake projects and purchase services or equipment when competitive bidding is required.

1. The Joint Powers Act

Under the Joint Powers Act, any city may enter into an agreement with one or more governmental units to exercise powers common to all parties. Under such an agreement, one governmental entity may solicit bids on behalf of itself and other governmental units that are parties to the agreement.

Joint purchasing agreements should be made using a formal council action, such as a resolution. Ideally, cities wishing to make purchases under one set of bids or quotations should agree to do so before the request for bids or quotations is made. This allows bidders to know how many purchases are likely to be made.

The attorney general has advised that the competitive bidding requirements apply to the total amount of a joint contract, not to an individual participant's share. Thus, if the total amount of the contract is more than the competitive bidding threshold, and it is the type of contract that is subject to the competitive bidding law, sealed bids must be sought even if the city's share of the contract is less than the competitive bidding threshold.

2. Cooperative purchasing programs

Many cities purchase a variety of supplies and equipment through cooperative programs.

RELEVANT LINKS:

MN Dept. of Administration -
Materials Management Div.
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
(651) 201-2600.

[Minn. Stat. § 471.345, subd. 15\(a\).](#)

[Minn. Stat. § 471.345, subd. 15\(b\).](#)

[Minn. Stat. § 16C.28.](#)
[Minn. Stat. § 412.311, subd. 2.](#)
[Minn. Stat. § 429.041, subd. 2a.](#)
[Minn. Stat. § 469.015, subd. 1a.](#)
[Minn. Stat. § 469.068, subd. 1a.](#)
[Minn. Stat. § 469.101, subd. 5a.](#)
[Minn. Stat. § 471.345, subds. 3a, 4a, and 5.](#)

[Minn. Stat. § 16C.28, subd. 1b.](#)

Rochester City Lines, Co. v. City of Rochester, 868 N.W.2d 655 (Minn. 2015) (holding the “unreasonable, arbitrary, or capricious” standard of review applies to a city’s best value bidding process).

[Minn. Stat. § 16C.28, subd. 1d.](#)

See Section II. A. 1. *Bids and proposals*.

The Department of Administration operates a cooperative purchasing program (Minnesota’s Cooperative Purchasing Venture (CPV)) that all cities can join. Cities that participate in this program are allowed to purchase equipment under state contracts that the state has already competitively bid.

In fact, for contracts estimated to exceed \$25,000, a city must consider the availability, price, and quality of supplies, materials, or equipment available through the CPV before buying through another source.

Cities also have authority to engage in joint purchasing for contracts for the purchase of supplies, materials, or equipment through a national municipal association’s purchasing alliance or cooperative. The alliance or cooperative must have been created by a joint powers agreement and must purchase items from more than one source based on competitive bids or competitive quotations.

D. Best value contracting

Best value contracting provides an alternative to the competitive bidding process for certain contracts. While competitively bid contracts generally must be awarded to the “lowest responsible bidder,” cities may use best value contracting to award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the “best value.” With best value contracting, cities are authorized to consider performance factors in addition to price when awarding contracts for construction projects.

Performance criteria may include, but are not limited to:

- Quality of performance on previous projects.
- Timeliness of performance on previous projects.
- Level of customer satisfaction on previous projects.
- Record of performing projects on budget and ability to minimize cost overruns.
- Ability to minimize change orders.
- Ability to prepare appropriate project plans.
- Technical capabilities.
- Qualification of key personnel.
- Ability to assess and minimize risks.

Any staff or consultants who wish to bid out a construction project through best value contracting must first receive training in the request for proposals (RFP) process for best value contracting. The commissioner of the Department of Administration has authority to establish a training program for state and local government officials.

RELEVANT LINKS:

Several Minnesota cities, counties, and school districts have received training through the Performance Based Studies Research Group.

Minn. Stat. § 16C.28, subd. 1(c).

See *Innovative Contracting*, Minnesota Department of Transportation for additional resources.

Minn. Stat. § 16C.28, subd. 1a (c).

Minn. Stat. § 471.345, subd. 2.

Hubbard Broad., Inc. v. Metro. Sports Comm'n., 381 N.W.2d 842 (Minn. 1986).

Schwandt Sanitation of Paynesville v. City of Paynesville, 423 N.W.2d 59 (Minn. Ct. App. 1988). A.G. Op. 707-A (Feb. 8, 1990).

Minn. Stat. § 471.345, subd. 4.

Minn. Stat. § 471.345, subd. 5.

The law does not specify the content or amount of training required, and the training may be conducted by entities other than the Department of Administration.

The criteria used to evaluate best value contracting proposals must be included in the RFP. The RFP must also state the relative weight of price and other selection criteria. If an interview of the vendor or contractor's personnel is a factor in the selection criteria, the relative weight of the interview must be stated in the RFP and applied accordingly.

It appears that cities are limited to using best value contracting for either one project annually or 20 percent of their projects, whichever is greater for the first three fiscal years in which best value contracting is used.

E. Exemptions, exceptions, and alternatives

While the types of contracts subject to competitive bidding are broadly defined, a number of city contracts, purchases, or related agreements are not subject to the competitive bidding law. The following are some of the most common exemptions, exceptions, or alternatives to competitive bidding:

- **Non-contracts.** An agreement that does not meet the definition of a contract under the competitive bidding law is exempt from the competitive bidding requirements. For example, an agreement in which a company supplied a special scoreboard system in exchange for the right to sell or lease advertising space on it was found to be exempt because it was not only a contract for "materials, supplies, or equipment." Likewise, contracts for refuse hauling and janitorial services were also found to be exempt from the competitive bidding requirements.
- **Contracts below the competitive bidding threshold, but above \$25,000.** As an alternative to competitive bidding, contracts that are estimated to cost more than \$25,000, but not more than \$175,000, may be made by direct negotiation. If direct negotiation is used, the council must seek at least two quotations when possible and keep them on file for at least one year after receipt.
- **Contracts of \$25,000 or less.** If a contract is estimated to be \$25,000 or less, the city has the choice of making the contract upon quotation or in the "open market." If the city makes the contract upon quotation, it shall be based, as far as practicable, on at least two quotations which shall be kept on file for at least one year after their receipt.

RELEVANT LINKS:

Minn. Stat. § 471.345, subd. 16.

Minn. Stat. § 471.345, subd. 17.

Minn. Stat. § 471.345, subs. 3a, 4a, and 5; Minn. Stat. § 412.311, subd. 2.
See Section I-D, *Best value contracting*.

Minn. Stat. § 471.345, subd. 10.

Minn. Stat. § 471.345, subd. 11.

Minn. Stat. § 471.345, subd. 13.

Minn. Stat. § 465.035; Minn. Stat. § 471.64.
A.G. Op. 59-A-15 (Mar. 30, 1965).
A.G. Op. 707a (Mar. 5, 1986).

A.G. Op. 707a-15 (Sept. 14, 1987).
Ambrozich v. City of Eveleth, 200 Minn. 473, 274 N.W. 635 (1937).

Krohnberg v. Pass, 187 Minn. 73, 244 N.W. 329 (1932). *Schwandt Sanitation of Paynesville v. City of Paynesville*, 423 N.W.2d 59 (Minn. Ct. App. 1988).
A.G. Op. 707a-7 (July 22, 1985).
A.G. Op. 707-A (Feb. 8, 1990).

- **Electronic purchases through reverse auctions.** Cities may, regardless of costs, contract for the purchase of supplies, materials, and equipment through an electronic reverse auction process. Vendors compete to provide the requested supplies, materials, or equipment at the lowest selling price in an open and interactive electronic environment.
- **Electronic sales of surplus supplies, materials, and equipment.** Cities may, regardless of value, sell surplus, obsolete, or unused supplies, materials, and equipment using an electronic process in which purchasers compete to offer the highest purchase price in an open and interactive environment.
- **Best value contracting.** Under certain circumstances, cities may use best value contracting for construction projects. Best value contracting authorizes cities to consider performance criteria in addition to price in the selection process.
- **Shared hospital or ambulance service contracts.** Certain hospital or ambulance purchases and leases are exempt from competitive bidding if made through a shared service purchasing agreement.
- **Some fuel contracts.** Fuel purchased by municipal power plants for the generation of power may be made using either direct quotations or competitive bidding.
- **Guaranteed energy-savings contracts.** Contracts for energy conservation measures that will reduce energy consumption or operating costs are not subject to competitive bidding. There are additional procedural requirements that must be considered and satisfied.
- **Intergovernmental contracts.** Cities do not need to follow the competitive bidding requirements when contracting for the sale, lease, or purchase of real or personal property with another government entity (federal, state, or political subdivisions).
- **Real estate contracts.** The purchase or sale of real property is generally not required to be competitively bid. However, a home rule charter may require a competitive bidding process for the purchase or sale of real estate.
- **Professional services contracts.** Cities are not required to follow the competitive bidding process when contracting for professional services such as those provided by doctors, engineers, lawyers, architects, accountants, as well as other services requiring technical, scientific, or professional training.

RELEVANT LINKS:

[Minn. Stat. § 471.6161.](#)

See Section II- A-1, *Bids and proposals.*

[Minn. Stat. § 12.37.](#)

[Minn. Stat. § 12.03, subds. 2, 3.](#)

[Layne Minn. Co. v. Town of Stantz](#), 257 N.W.2d 295 (Minn. 1977).

See [Handbook, Expenditures, Purchasing, and Contracts.](#)

[Village of Excelsior v. F.W. Pearce Corp.](#), 303 Minn. 118, 226 N.W.2d 316 (1975).

[Minn. Stat. § 453.59.](#)

[Minn. Stat. § 453A.09.](#)

2018 Minn. Laws ch. 124 § 1 amending Minn. Stat. § 471.345, subd. 5b.

- **Insurance contracts.** Cities are not required to follow competitive bidding requirements for insurance contracts. However, group insurance coverage for 25 or more employees must be solicited through a request for proposals. The request for proposals must be in writing and must include the coverage to be provided, the criteria for evaluation of carrier proposals, and the aggregate-claims records for the appropriate period. The request for proposals must be published in a newspaper or trade journal for at least 21 days before the final day for submitting proposals.
- **Emergency contracts.** The Emergency Management Act gives cities the ability to declare an emergency for a limited period of time. During an emergency (“an unforeseen combination of circumstances that calls for immediate action to prevent a disaster from developing or occurring”) or disaster (“a situation that creates an actual or imminent serious threat to the health and safety of persons”), cities are not required to use mandated contracting procedures. If the facts of the situation do not indicate that a true emergency existed, such a contract would likely be considered void.
- **Some intergovernmental construction contracts.** Competitive bidding is not required for a cooperative agreement to construct a project with the state or with another political subdivision of the state when the other unit does the construction. This applies only where there is an agreement prior to the initial advertising for bids on the project.
- **Some municipal electric power construction contracts.** A city may contract for the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, and improvement of generation and transmission facilities without advertising for bids. The facilities must be located outside of the city’s corporate limits.
- **Some municipal gas construction contracts.** A city may contract for the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension, and improvement of generation and transmission facilities outside of its corporate limits or those of its members without advertising for bids.
- **Water tank service contracts.** Multi-year contracts for water tower tank maintenance work used to be an exception to competitive bidding such that professional water tank services could be negotiated on the open market. Effective for agreements entered into on or after September 1, 2018, the portion of any water tank maintenance work that includes “sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair, or maintenance of real or personal property” must go through competitive bidding or best value contracting.

RELEVANT LINKS:

[Minn. Stat. § 471.3455.](#)

[Minn. Stat. § 469.015, subd. 4.](#)

[Minn. Stat. § 462.358, subd. 2a.](#)

See Section II-F:

Coller v. City of St. Paul, 223 Minn. 376, 26 N.W.2d 835 (1947).
[A.G. memorandum to public officials \(Feb. 22, 1974\).](#)

Davies v. Village of Madelia, 205 Minn. 526, 287 N.W. 1 (1939).

- **Public safety equipment.** A city may acquire by purchase or lease used public safety equipment without competitive bids or proposals if the equipment is clearly and legitimately limited to a single source of supply, and the contract price may be best established by direct negotiation. "Public safety equipment" is defined as vehicles and specialized equipment used by a fire department in firefighting, ambulance, and emergency medical treatment services, rescue, and hazardous materials response.
- **HRA exceptions.** Under certain circumstances, a housing and redevelopment authority does not need to comply with competitive bidding requirements.
- **Public improvements made by a subdivider.** The construction and installation of public improvements made by a subdivider or a subdivider's contractor do not need to comply with competitive bidding requirements.

II. Procedure

The competitive bidding process generally includes the following steps:

- Preparation of bid specifications.
- Publication of bid advertisement.
- Opening and tabulation of bids.
- Investigation of bids.
- Disposition of bids.

Cities may have additional requirements to follow, depending upon city policies, charter provisions, or the specific nature of the contract. In addition, city officials should be aware of how the information they receive is classified under the Minnesota Government Data Practices Act (MGDPA).

A. Preparation of bid specifications

Before seeking bids, the city must prepare plans and specifications. The specifications should provide bidders a basis on which to bid that attracts as many bidders as possible and treats all of them fairly. Cities should keep the following general rules in mind when preparing specifications:

- The specifications must be sufficiently definite to give prospective bidders a "reasonable basis" on which to bid. Whether specifications are sufficiently definite is determined on a case-by-case basis.

RELEVANT LINKS:

Minn. Stat. § 471.35.
Otter Tail Power Co. v. Village of Elbow Lake, 234 Minn. 419, 49 N.W.2d 197 (1951).

Minn. Stat. § 16C.02, subds 11, 12.

See Appendix A, Outline of a Request for Proposal.

Ad for Sealed Equipment Bid, LMC Model Form.
For construction projects see Section II-R-1, Content Responsible contractor requirements.

Minn. Stat. § 16C.28, subd. 1(c).
Minn. Stat. § 16C.02, subd. 12.
See Section I-D, Best value contracting.

Minn. Stat. §§ 471.35-37.
Major Indus., Inc. v. Krech, Ojard & Associates, Inc., No. A04-1052 (Minn. Ct. App. Dec. 21, 2004) (unpublished opinion).

Otter Tail Power Co. v. Village of Elbow Lake, 234 Minn. 419, 49 N.W.2d 197 (1951).

- The specifications may not be drawn in such a way as to exclude all but one type or kind of supplies or equipment. The specifications must permit free and unrestricted bidding. However, this does not mean the specifications must be drawn to include every possible bidder.
- In situations where drawing tight specifications would have the effect of unreasonably limiting competition, the city may draw the specifications so as to include a variety of more or less comparable equipment so officials can evaluate the resulting submissions based on overall value. If this kind of procedure is used, it is a good idea to include a statement to that effect within the specifications. This will tell bidders how the bids will be evaluated and what factors will be considered in addition to price. In this type of situation, the specifications should spell out the minimum functions the equipment must perform to be acceptable.

1. Bids and proposals

While often used interchangeably, there are differences between a request for proposals (RFPs) and a request for bids (often referred to as a “bid advertisement” or “advertisement for bids”). A bid advertisement is used to obtain sealed bids that indicate the price for which a bidder is willing to perform a contract that was specifically defined by the city. In contrast, an RFP broadly defines the scope of the contract, and asks interested persons for proposals that specifically define the services that will be offered and the amount they will cost. RFPs are commonly used for contracts that are not required to be competitively bid, such as contracts for professional services.

The best value contracting alternative uses RFPs in the solicitation and selection process. Otherwise, the competitive bidding law does not provide for the use of a “request for proposal.”

2. Noncompetitive supplies and equipment

State law makes it a gross misdemeanor to draft specifications to exclude all but one type of supplies or equipment. However, there is an exception for noncompetitive supplies and equipment. Just what would be considered “noncompetitive” supplies or equipment is not clear. Even though noncompetitive supplies or equipment are an exception from the requirement concerning specifications, they are still subject to the other competitive bidding requirements.

3. Restrictive specifications

Minnesota courts have recognized that some items are not capable of precise specifications.

RELEVANT LINKS:

Otter Tail Power Co. v. Mackichan, 270 Minn. 262, 133 N.W.2d 511 (1965)
A.G. Op. 707a-12 (May 23, 1962).

Hendricks v. City of Minneapolis, 207 Minn. 151, 290 N.W. 428 (1940)

A.G. memorandum to public officials (Feb. 22, 1974).

LMC information memo,
Official Conflict of Interest.

While the city will be allowed some latitude in specifying features of a complicated piece of equipment, it must have a clear reason for restrictive specifications. Where reasons for such restrictions cannot be shown, they are considered to stifle competition and will not be upheld.

A city can, within reason, require specific materials or particular methods of financing as long as the requirements are in the best interests of its inhabitants, even if such restrictions may limit the number of possible bidders.

4. Terms and conditions

The attorney general has suggested that cities should take great care in identifying the contractual obligations of both parties in the specifications. Cities should address:

- The city's right to reject all bids.
- What the city views as the most important award factors.
- The where and when of delivery.
- Any necessary patent protection.
- Liquidated damages.
- Any required maintenance and related services.
- The provisions of any warranties.
- How training on the use of equipment will be provided.
- How conflicts will be resolved if a dispute arises regarding the contract.
- Time of delivery.
- The specifics of acceptance.
- Whether the city is purchasing on a unit or lot basis, and the reasons why the plans and specifications are restrictive (if they are).
- The period of time for which the vendors bid is to be firm.
- Any other special conditions relating to the items to be purchased.

These obligations should be dealt with clearly in the plans and specifications. Spelling out the terms and conditions will give both the city and any prospective bidders a fuller understanding of their rights and responsibilities. It can also help to minimize controversies and inefficiencies in the performance of the contract.

5. Vendor assistance

Vendors often assist cities in drafting contract specifications. In these situations, cities should seek an agreement from these individuals not to bid on the project for which they have drawn the specifications. Otherwise, the vendor may have an unfair advantage when bidding on the contract.

RELEVANT LINKS:

See Section II-D,
Investigation of bids.

*Westra Constr., Inc. v. City of
Minnetonka*, No. A03-50
(Minn. Ct. App. Dec. 30,
2003) (unpublished opinion).

Minn. Stat. § 471.3457.
Minn. Stat. § 471.345. Minn.
Stat. § 375.771.

6. Pre-qualification of bidders

When preparing specifications, cities are sometimes interested in the possibility of evaluating contractors before bids are submitted. The authority of cities to require bidders to pre-qualify before allowing them to bid on a contract is unclear.

Requiring bidders to meet minimum qualifications in advance would potentially eliminate irresponsible bidders and reduce the total number of bids the city will need to consider. It also may give potential bidders an idea of the criteria the council will use to determine the responsibility of the bidders.

Although it is arguable that a pre-qualification requirement is within a city's powers, it is not possible to cite any direct authority for such a practice. However, decisions in cases from other states suggest that pre-bid criteria are permissible when established under a state policy. Cities may want to have their city attorneys consider any pre-qualification criteria that are being considered for bidders.

In an unpublished decision, the Minnesota Court of Appeals upheld the use of bid-evaluation criteria by the City of Minnetonka (a home rule charter city). The criteria were not used as true pre-qualification criteria because they were not used to exclude anyone from bidding. Instead, they were used to determine which bidders were eligible to be considered for the contract award. Bidders were given scores based on criteria including their history for doing similar projects on time and on budget. Only bidders with a 10-point minimum score were eligible to be considered for being awarded the contract.

7. Bid preference for veteran-owned small businesses

Cities may implement programs to provide designated veteran-owned small businesses with a bid preference when awarding contracts for the sale, purchase, or rental of supplies, materials, or equipment or for the construction, alteration, repair, or maintenance of real or personal property or for services.

B. Publication of bid advertisements

Cities provide public notice when they are going to award a contract through the competitive bidding process. The following discusses the minimum requirements. Cities may choose to provide additional notice. A longer period of advertising can increase the number of bidders and improve the chances of achieving better contract terms.

RELEVANT LINKS:

[LMC Marketplace](#)

[Ad for Sealed Construction Project Bid, LMC Model Form.](#)

[Ryan v. City of Coon Rapids, 462 N.W.2d 420 \(Minn. Ct. App. 1990\).](#)

[Minn. Stat. § 16C.285.](#)

See responsible contractor clause for bid solicitation in [Ad for Sealed Construction Project Bid, LMC Model Form.](#)

[Minn. Stat. § 16C.285.](#) (A “responsible contractor” must verify compliance with various state and federal requirements, including tax, workers’ compensation, unemployment insurance, wage, and safety requirements).

In addition, the city may want to mail an invitation or personally contact those contractors it thinks might be interested in submitting a bid.

The League will post, at no cost to member cities, bid advertisements on its website.

1. Content—Responsible contractor requirements

The published notice should contain the following information:

- A description of the project or purchase being sought.
- The availability and location of specifications.
- Bid requirements (such as sealed bids or accompanying security).
- Where bids must be submitted.
- The deadline for submitting bids.
- The time and place of the bid opening.
- The city officers who will be present for the opening.
- A statement indicating that the city may delay the award until certain events occur.
- A statement indicating that the city reserves the right to reject all bids submitted.

Effective Jan. 1, 2015, specific content must appear in the solicitation document for a public construction “project” that is estimated to exceed \$50,000 and is awarded pursuant to a lowest responsible bidder selection method or a best value selection method. The amount of any tax increment financing must be excluded in determining whether a construction contract exceeds \$50,000. A “project” means “building, erection, construction, alteration, remodeling, demolition, or repair of buildings, real property, highways, roads, bridges, or other construction work performed pursuant to a construction contract.”

First, the solicitation document shall state that any prime contractor, subcontractor, or motor carrier that does not meet the minimum criteria established for a “responsible contractor” as defined in Minn. Stat. § 16C.285, subd. 3 or fails to comply with the verification requirements is not a responsible contractor and is not eligible to be awarded a construction contract for the project or to perform work on the project. Second, the solicitation document shall provide that a false statement under oath verifying compliance with any of the minimum criteria shall make the prime contractor, subcontractor, or motor carrier that makes the false statement ineligible to be awarded a construction project and may result in termination of a contract awarded to a prime contractor, subcontractor, or motor carrier that submits a false statement. Third, the solicitation document shall state that a prime contractor shall include in its verification of compliance a list of all of its first-tier subcontractors that it intends to retain for work on the project.

RELEVANT LINKS:

[Minn. Stat. § 16C.285.](#)

See sample [Responsible Contractor Verification and Certification of Compliance](#), Minnesota Department of Transportation.

[Minn. Stat. § 3251.02 \(b\).](#)

[Minn. Stat. § 16C.285, subd. 5.](#)

[Minn. Stat. § 16C.285, subd. 4.](#)

[Minn. Stat. § 412.311.](#)

[Minn. Stat. § 410.33.](#)

A responding contractor shall submit to the city a signed statement under oath by an owner or officer verifying compliance with the required minimum criteria at the time that it responds to the solicitation document. A city may accept a signed statement as sufficient to demonstrate that a contractor is a responsible contractor and shall not be held liable for awarding a contract in reasonable reliance on that statement. A verification of compliance does not need to be notarized. An electronic verification of compliance made and submitted as part of an electronic bid shall be acceptable verification of compliance if it contains an electronic signature that complies with the definition in state law.

Before execution of a construction contract, a prime contractor shall submit a supplemental verification under oath confirming that all subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the prime contractor, through a signed statement under oath by an owner or officer, that they meet the minimum criteria for a responsible contractor. In addition, each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet the minimum criteria before execution of a construction contract with each subcontractor.

A city shall not be liable for declining to award a contract or terminating a contract based on a reasonable determination that the contractor failed to verify compliance with the minimum criteria or falsely stated that it meets the minimum criteria.

2. Time

Several factors must be considered when deciding how long an advertisement for bids must be published. It is important to consider the type of contract being advertised.

Depending upon the particular city and its policies or charter requirements, there may be special advertising requirements.

a. General publication requirements

In statutory cities, bids must be solicited by notice published once in the official newspaper at least 10 days before the last day for submission of a bid.

Home rule charter cities should consult their charters for any special advertisement requirements. If the charter is silent with regard to this matter, a city may utilize the requirement for statutory cities of advertising by published notice in the official newspaper at least 10 days before the last day for submitting bids.

RELEVANT LINKS:

Minn. Stat. § 429.031, subd. 1.
Minn. Stat. § 429.041, subd. 1.
See LMC information memo, *Special Assessment Toolkit*.

Minn. Stat. § 429.041, subd. 1.

Minn. Stat. § 331A.01, subd. 11.

Minn. Stat. § 412.311.

Minn. Stat. § 429.041, subd. 1.

Minn. Stat. § 331A.01, subd. 11.

Minn. Stat. § 429.041, subd. 1.

Minn. Stat. § 331A.03.

See LMC information memo, *Newspaper Publication*.

Minn. Stat. § 331A.03.

b. Local improvement contracts

If a city is making a contract for a local improvement under the special assessment statutes, there are special public notice and hearing requirements. Since these requirements must be met prior to advertising and awarding the contract, they are not addressed in this memo.

There are two possible advertisement requirements when seeking bids for this type of contract:

- **Bids for a local improvement contract estimated to exceed \$175,000.**
The city must advertise for bids in the official newspaper or in a recognized trade journal for the length of time the council may deem advisable. (Statutory cities must still meet the 10-day minimum advertising requirement.)
- **Bids for improvement contracts estimated to exceed \$350,000.**
If the estimated cost of the contract exceeds twice the \$175,000 threshold, or \$350,000, the publication must be made at least three weeks before the last day to submit bids. The advertisement must be published at least once in the official newspaper and at least once in a newspaper that is published in a First Class city or in a recognized trade journal.

The advertisement must specify the work to be done and state the time when the council will publicly open the bids for consideration. The advertisement must require that the bids be sealed (unless the city authorizes electronic bids), filed with the clerk, and accompanied by a cashier's check, bid bond, or certified check made payable to the clerk.

3. Alternative notice

Under certain circumstances, cities are authorized to use two alternative means of providing notice for bid advertisements either in addition to, or as an alternative to, the statutory requirements for newspaper publication.

The two alternative means of providing notice are on the city's website or in a recognized trade journal.

There are conditions that must be met when a city uses an alternative means of dissemination:

- The alternative dissemination must be in substantially the same format and for the same period of time as required for newspaper publication.
- The city must simultaneously publish, either as part of its regular meeting minutes or in a separate notice, a description of all the solicitations being disseminated through alternative means.

RELEVANT LINKS:

- For the first six months after a city designates an alternative means of dissemination, it must continue to publish bid advertisements in the official newspaper in addition to the alternative method. The newspaper publication must indicate where to find the designated alternative method.

After the expiration of the six-month period, an alternative means of dissemination satisfies any publication requirements.

C. Opening and tabulation of bids

Bids should be kept unopened by the clerk until after the closing time for receiving them. At the time set by the council in the advertisement, the bids should be opened publicly in the presence of the officials named in the bid notice. All bids should be opened and tabulated at a public meeting by the council or in advance of the council meeting by designated officials.

Generally, bids should be opened prior to the meeting at which the council will consider them, preferably on the same day. This enables the engineer or clerk to tabulate each bid in advance, which will reduce the time spent on the matter during the council meeting.

1. Bids received electronically

Cities are authorized to allow bidders to submit bids electronically. Cities are also authorized to allow bid, performance, and payment bonds, as well as other security, to be furnished electronically. The bid advertisement should specify the form and manner required for electronic submission.

Cities should also consider adopting policies for how the “opening” of electronic bids will be handled. For example, cities may want to designate a staff person to receive the electronic bids and be responsible for printing a hard copy of them.

Cities may also want to designate a staff person to be responsible for keeping the amount and terms of the electronic bids private until the time and date specified in the solicitation that bids are due, at which time the name of the bidder and the dollar amount specified in the response become public.

2. Bids received by facsimile

It appears cities cannot accept a bid sent to them through a facsimile machine. According to the competitive bidding law, bids generally must be “sealed.” Facsimile bids would not meet this requirement.

Minn. Stat. § 471.345, subd. 18.

Minn. Stat. § 471.345, subd. 3.

RELEVANT LINKS:

[Minn. Stat. § 412.311, subd. 1.](#)
[Minn. Stat. § 429.041, subd. 2.](#)

[Coller v. City of St. Paul](#), 223 Minn. 376, 26 N.W.2d 835 (1947). [Foley Bros., Inc. v. Marshall](#), 266 Minn. 259, 123 N.W.2d 387 (1963).

[State v. Snively](#), 175 Minn. 379, 221 N.W. 535 (1928). [Kelling v. Edwards](#), 116 Minn. 484, 134 N.W. 221 (1912).

[Nielsen v. City of St. Paul](#), 252 Minn. 12, 88 N.W.2d 853 (1958).

[Otter Tail Power Co. v. Village of Elbow Lake](#), 234 Minn. 419, 49 N.W.2d 197 (1951).

[Otter Tail Power Co. v. Village of Wheaton](#), 235 Minn. 123, 49 N.W.2d 804 (1951).

D. Investigation of bids

After all bids have been opened, the council should investigate them. Information should be obtained to help the council evaluate each of the bidders. This may be carried out by the city engineer, purchasing agent, clerk, or other designated person. The following elements are usually considered during the evaluation process:

- The responsibility of the bidder and the probability of the bidder's adequate performance.
- Compliance with specifications.
- Reasonableness (including how the bids compare to cost estimates).
- Any other relevant factors.

1. Lowest responsible bidder

Statutory city contracts and contracts of all cities for improvements under the local improvement code must generally go to the "lowest responsible bidder." Most home rule city charters contain similar requirements, with terms such as "lowest bidder" or "lowest and best bidder" describing their selection process.

The phrase "lowest responsible bidder" does not mean the lowest bidder, but the lowest bidder who is most likely to do faithful, conscientious work and promptly fulfill the contract according to its letter and spirit. In determining who the lowest responsible bidder is, the courts have said that the council has reasonable discretion.

The successful bidder must be considered "responsible" to perform the proposed contract. "Responsibility" includes such things as the bidder's financial responsibility, integrity, ability, skill, and likelihood of providing faithful and satisfactory performance.

In determining the lowest responsible bid, the council may take into consideration not only the lowest price offered, but also the actual capability of a given vendor to perform the proposed contract and whether the bidder has adequately met the terms and conditions of the bid specifications.

The council has somewhat more latitude in purchasing items of equipment that are not capable of exact specifications. In making such a purchase, a council may exercise reasonable discretion in determining the lowest responsible bidder. In addition to the bid price, it may consider the quality, suitability, and adaptability of the equipment.

In some situations, the council may decide what weight to give to various factors and accept what it deems to be the lowest responsible bid.

RELEVANT LINKS:

A.G. Op. 707a-15 (Oct. 25, 1966).

Otter Tail Power Co. v. Village of Elbow Lake, 234 Minn. 419, 49 N.W.2d 197 (1951). *Leskinen v. Pucel*, 262 Minn. 461, 115 N.W.2d 346 (1962).

Sutton v. City of St. Paul, 234 Minn. 263, 48 N.W.2d 436 (1951). *Carl Bohlander & Sons Co. v. City of Minneapolis*, 451 N.W.2d 204 (Minn. 1990).

Coller v. City of St. Paul, 223 Minn. 376, 26 N.W.2d 835 (1947). A.G. Op. 980-B (June 2, 1950). *Duffy v. Village of Princeton*, 240 Minn. 9, 60 N.W.2d 27 (1953).

Diamond v. City of Mankato, 89 Minn. 48, 93 N.W. 911 (1903). *Coller v. City of St. Paul*, 223 Minn. 376, 26 N.W.2d 835 (1947).

LeTourneau v. Hugo, 90 Minn. 420, 97 N.W. 115 (1903).

A.G. Op. 707-B-7 (May 21, 1946).

A.G. Op. 707-a-4 (June 4, 1947).

Rochon Corp. v. City of Saint Paul, 814 N.W.2d 365 (Minn. Ct. App. 2012).

Such a situation occurred when plans and specifications for the construction of a power plant demanded the consideration of several factors and no single bid was the lowest in all the factors. The court agreed the city council could use its discretion to determine which elements were the most important and said that such a contract will not be set aside without an abuse of discretion.

In awarding a contract for the purchase of an item, such as a police car, a council may be able to consider the proximity of repair and service facilities in addition to the bid's price.

In extreme situations, time and certainty of delivery may be grounds for not choosing the lowest bidder. However, when a city is awarding a contract on a basis other than the lowest bid, it should be able to justify its decision.

2. Conformity to plans and specifications

A successful bid must conform to the bid specifications. Unless the bid responds to the specifications in all material respects, it is not a bid but a new proposition and, therefore, should be rejected.

A bidder who has deviated from the specifications may still be awarded the contract if it was not a material deviation. The general rule is that a variance is material if it gives a bidder a substantial advantage or benefit over other bidders. Whether a material variance exists is a fact question that must be dealt with on a case-by-case basis. The following deviations were found to be material:

- A difference in the contract's payment date that was four months earlier than the date provided for in the specifications.
- A stipulation that the equipment sold to the city be installed according to the company's specifications instead of those of the city, and failure of the bidder to agree to pay for a city inspector during the six-month trial period as called for in the specifications.
- Modification to allow a bidder earlier payment and a change of specifications to relieve the bidder from completion penalties if the delayed performance was due to circumstances beyond the bidder's control.
- Bidder's deviation by adding a 10-percent escalation clause.
- Submission of a single bid for an entire contract when the specifications asked for separate bids for the contract's four parts.
- Allowing a bidder to increase its bid because of a mathematical error and selecting the modified bid because even after the modification the increased bid was still the lowest.

RELEVANT LINKS:

Foley Bros. v. Marshall, 123 N.W.2d 387, 390 (Minn. 1963).

Carl Bolander & Sons Co. v. City of Minneapolis, 451 N.W.2d 204, 207-08 (Minn. 1990).

Lovering-Johnson, Inc. v. City of Prior Lake, 558 N.W.2d 499, 503 (Minn. Ct. App. 1997).

Foley Bros., Inc. v. Marshall, 266 Minn. 259, 123 N.W.2d 387 (1963).
A.G. Op. 707-A-3 (May 6, 1953).
Nielsen v. City of St. Paul, 252 Minn. 12, 88 N.W.2d 853 (1958).

Griswold v. Ramsey County, 242 Minn. 529, 65 N.W.2d 647 (1954); A.G. Op. 161-A-8 (Jan. 5, 1965). *Duminick Bros., Inc. v. State*, C3-97-972 (Minn. Ct. App. Nov. 25, 1997) (unpublished opinion).
Lovering-Johnson, Inc. v. City of Prior Lake, 558 N.W.2d 499 (Minn. Ct. App. 1997). *Rochon Corp. v. City of Saint Paul*, 814 N.W.2d 365 (Minn. Ct. App. 2012).

Tunny v. City of Hastings, 121 Minn. 212, 141 N.W. 168 (1913). *Rochon Corp. v. City of Saint Paul*, 814 N.W.2d 365 (Minn. Ct. App. 2012).

- Variations that affect “price, quality, or quantity, or the manner of performance, or other things that go into the actual determination of the amount of the bid.”
- Failure to comply with specification by listing a women-owned subcontracting firm with which the bidder would use best efforts to enter into a subcontract.
- Deleting a plus sign from a defective bid so it became the lowest bid.

Alternatively, minor irregularities and deviations are generally not viewed as material. This is especially true of technical irregularities where requirements are intended for the benefit of the city and do not injure other bidders. The following were not found to be material deviations:

- Failure to submit a required non-collusion affidavit on a specified form when a similar non-collusion certificate was submitted instead.
- Submission of a personal check instead of the required certified check as bid security.
- Failure to describe bidder status properly.
- Failure to have a bid bond notarized.
- Neglect in scaling a bid.
- A few minutes delay in submitting the bid.

3. Changes and mistakes in bids

Sometimes contractors will discover that their bids contain a mistake after bids have been opened. Generally, a bidder should not be allowed to alter his or her bid substantially after the bid opening since this would give the bidder a substantial advantage over other bidders. For example, courts have found that a price term and an ambiguous contract bid price were mistakes that could not be waived. If the bidder is the low bidder because of the mistake, and the bid has been accepted before the mistake is discovered, the city may not award the contract for the corrected amount. This is unfair to the other bidders.

However, if the council chooses to reject all bids and advertise again, a bidder may submit a new, corrected bid (not knowing, of course, whether his or her new bid will be low the second time).

In general, a bidder will be relieved of the obligation to enter into a contract because of a unilateral mistake if all of the following apply:

- The mistake is so substantial that it is unreasonable to suppose the contractor would have submitted the bid.
- The mistake was not the product of the bidder’s gross negligence.
- The contractor gives prompt notice of the error to the city.

RELEVANT LINKS:

2 A.L.R.4th 991 (1980).

St. Nicholas Church v. Kropp,
135 Minn. 115, 160 N.W. 500
(1916).

Tunny v. City of Hastings,
121 Minn. 212, 141 N.W. 168
(1913).

*City of Lonsdale v. New Mech
Cos., Inc.*, Nos. A07-0105,
A07-0107, A07-0108 (Minn.
Ct. App. Jan. 22, 2008)
(unpublished decision).

[Minn. Stat. § 574.27.](#)

[A.G. Op. 707-a-1 \(Mar. 28,
1955\).](#)

- The city has not changed its position in reliance on the bid and has suffered no damage other than the loss resulting from the bid mistake.

The contractor must sufficiently identify the error to permit the city to determine that the contractor is entitled to relief. The contractor is given relief when the error is obvious to the city when the bid is read.

A contract may be rescinded for a unilateral mistake. The mistake may stem from a clerical error, such as transposing numerals, from forgetting to include the amount for performing a segment of the work, or from a math error. For example, a court found that the omission of the structural steel to be used in church construction was such a mistake.

The mistake may also stem from an error of judgment concerning the nature of difficulties of the work, the quality of materials required, or other judgmental factors. Such a situation occurred where a contractor mistakenly bid based on earth excavation when, in fact, a large part of the excavation was through solid rock.

Lawsuits involving mistakes in bids may arise either in actions by the city against the contractor or bid-bond surety, or both. The city may ask for the amount of the bond, or the difference between the low bid and the second lowest bid.

A contractor may also sue for the return of the bid bond. The city may relieve a mistaken bidder of the consequences of his mistake.

When a mistaken bid is superseded or abandoned by the parties, the bidder is entitled to a return of the deposit or cancellation of the security.

When a low bidder refuses to sign a contract because of a material mistake in the bid, the city must decide whether to accept the second low bid or reject all bids and re-advertise. The city should also consider the time and expense involved in rebidding, as well as the possibility of higher bids on the second attempt. The delay may result in higher costs and less competition. The delay can also result in less favorable weather during construction. Generally, it is expensive for contractors to submit bids. Some contractors, having once bid a job and disclosed their price, may refuse to bid again.

E. Disposition of bids

After investigation of the bids, the council may either accept one of the bids or reject all of them. If there are no bids, the council should re-advertise. Cities that find themselves in this type of situation may reach more potential bidders by revising the bid specifications or re-advertising in publications with a larger circulation.

RELEVANT LINKS:

[Minn. Stat. § 429.041, subd. 2.](#)

[Minn. Stat. § 429.041, subd. 2.](#)

[Elec. Unlimited, Inc. v. Village of Burnsville, 289 Minn. 118, 182 N.W.2d 679 \(1971\).](#)

See Section II. A. *Preparation of bid specifications.*

[Minn. Stat. ch. 13.](#)

See IMC information memo, *Data Practices: Analyze, Classify, Respond.*

[Minn. Stat. § 13.591, subd. 3\(a\).](#)
[Minn. Stat. § 13.37, subd. 2.](#)

[Minn. Stat. § 13.591, subd. 3\(a\).](#)

Generally, a lack of response from bidders does not eliminate the requirement to use the competitive bidding process. However, on a local improvement project under the special assessment statutes, if there are no bidders or if the only bids exceed the engineer's estimate, the council may choose to do the work by day labor.

1. Rejecting bids

The local improvement code gives the city the right to reject any and all bids, even if the city doesn't include such a statement in the advertisement for a local improvement. The same is true of any city with a similar charter provision applying to other contracts.

In any other case, the city should reserve the right to reject any or all bids or to waive informalities or irregularities. It is possible that if the city has not reserved the right to reject any and all bids, a court action could compel the city to award the contract to the low bidder.

2. Delays in accepting bids

In the bid specifications, the city may put bidders on notice that there may be a delay in accepting a bid until certain events occur.

For example, in a project that will be paid for with special assessments, a city may wish to delay awarding a bid until the time for appealing the special assessments has passed.

F. Data practices

The Minnesota Government Data Practices Act (MGDPA) is a series of state laws that attempt to balance the public's right to know what their government is doing, individuals' right to privacy in government data created and maintained about them, and the government's need to function responsibly and efficiently. The MGDPA divides all government data into broad classifications that determine who can access the data.

1. Bid information

When cities use the competitive bidding process, sealed bids are not public until the time and date specified in the solicitation that bids are due, at which time the name of the bidder and the dollar amount specified in the response become public. All other data in a bidder's response to a bid is not public data until completion of the selection process.

"Completion of the selection process" means the city has completed its evaluation and has ranked the responses.

RELEVANT LINKS:

[Minn. Stat. § 13.37,
DPO 08-021.](#)

[Minn. Stat. § 13.591, subd.
3\(a\).](#)

[Minn. Stat. § 13.591, subd.
3\(a\).](#)

[Minn. Stat. § 13.591, subd.
3\(b\).](#)

[Minn. Stat. § 13.591, subd.
3\(b\).](#)

[Minn. Stat. § 13.591, subd.
3\(b\).](#)

[Minn. Stat. § 13.591, subd.
3\(b\).](#)

[DPO 03-014.](#)

[54 U.S.C. § 552\(b\)\(4\).](#)

After a government entity has completed the selection process, all remaining data submitted by all bidders is public (with the exception of anything that might be considered a “trade secret” under the law).

If all bids are rejected prior to completion of the selection process, all data (other than the name of the bidder and the dollar amount specified in the response) remains not public until either:

- The selection process is completed after a re-solicitation of bids.
- The city decides to abandon the purchase.

If the rejection occurs after the completion of the selection process, the data remains public. If a re-solicitation of bids does not occur within one year of the bid opening date, the remaining data becomes public.

2. Proposals

Data submitted by a business to a city in response to an RFP are not public data until the time and date specified in the solicitation that proposals are due, at which time the name of the responder becomes public. All other data in a response to an RFP are private or nonpublic data until completion of the evaluation process. “Completion of the evaluation process” means that the city has completed negotiating the contract with the selected vendor.

After the city has completed the evaluation process, all remaining data submitted by all responders are public, with the exception of trade secret data.

If all responses to an RFP are rejected prior to completion of the evaluation process, all data, other than the names of the responders, remains not public until either:

- The selection process is completed after a re-solicitation of proposals.
- The city decides to abandon the purchase.

If the rejection occurs after the completion of the evaluation process, the data remains public. If a re-solicitation of proposals does not occur within one year of the proposal opening date, the remaining data becomes public.

A business submitting a proposal may give written consent to the release of non-trade secret data prior to the opening of all proposals, so long as a city informs the business of the possibility that such data could be released during the time that the statute classifies the data as not public.

3. Proprietary information

A statement that data submitted in support of a bid or proposal is copyrighted, “proprietary,” or otherwise protected is insufficient to prevent public access to the data contained in the bid.

RELEVANT LINKS:

Nat'l Council on Teacher Quality v. Minnesota State Colleges & Univs., 837 N.W.2d 314 (Minn. Ct. App. 2013).

Minn. Stat. § 13.37, subd. 2:

Minn. Stat. § 13.37, subd. 2:

Minn. Stat. § 412.691.

Minn. Stat. § 412.201.

State ex rel. Kron v. Hodapp, 104 Minn. 309, 116 N.W. 589 (1908).

See *Primer on Project Delivery* (2nd ed. 2011), The American Institute of Architects and The Associated General Contractors of America.

This is important because, while the Federal Freedom of Information Act does allow data to be withheld if marked “proprietary,” Minnesota state law is more restrictive. However, the Minnesota Government Data Practices Act cannot be interpreted to require a government body to violate the Federal Copyright Act.

When issuing a request for bids or proposals, a city may indicate the distinction between state and federal law and the need to mark any data claimed to be a trade secret. Potential respondents can be instructed to submit a separate letter to the responsible authority explaining how the data they claim is trade secret data meets the criteria. It is then the duty of the responsible authority to determine the appropriate classification.

III. Contracts

Generally, only the council may enter into contractual agreements on behalf of the city; individual councilmembers, council committees, and city administrative officers do not have that authority. However, city managers of Plan B statutory cities may let contracts when the amount does not exceed \$20,000. Home rule charters often provide similar limited authority as well.

The council should approve every contract by resolution. In addition, in statutory cities, the mayor and the clerk (or the manager in Plan B cities) must sign and affix the city seal to the contract. As long as the contract expresses an agreement of the council as a whole, and as long as there is no other reasonable doubt concerning the contract’s legality, these officials may not, based on their own judgment, refuse to execute the contract.

A. Delivery methods

The following is an overview of some of the different types of contract delivery methods.

1. Design/bid/build contracts

The design/bid/build delivery method is the most traditional type used for building construction. With this process, the city contracts with an architect who designs the building. The architect’s drawings are then used as the specifications to advertise for bids on the construction of the building. The winning bidder is contracted with to build the building.

The strength of this method is that it allows the city to plan the entire building before construction begins. It also allows for some follow-up between the contractor and the architect. The weakness of this type of contract is that disagreements can arise between the city, the architect, and the general contractor because of competing interests.

RELEVANT LINKS:

See *Primer on Project Delivery* (2nd ed. 2011), The American Institute of Architects and The Associated General Contractors of America. See LMC information memo, *City Sales Tax Exemption in Construction Contracts*.

W.V. Nelson Constr. Co. v. City of Lindstrom, 565 N.W.2d 434 (Minn. Cl. App. 1997). See *Primer on Project Delivery* (2nd ed. 2011), The American Institute of Architects and The Associated General Contractors of America.

For example, the architect may not be aware of the most current cost of materials and procedures, or the costs could change significantly between the time the building was designed and the time the construction begins. This procedure is slow because the project must be entirely planned out and bid before the construction costs can be fixed.

2. Construction manager

With this method, the city hires a construction manager, who is responsible for overseeing the contractor or advising the city if the city is acting as the general contractor. Often, the city will take the responsibility for purchasing the construction materials.

The strengths with a construction manager are that the city can avoid contractor mark-ups on the cost of materials, and the city can have additional supervision and feedback on the architectural design and construction.

Weaknesses include the possibility of higher administrative costs for the city and possible delays because the responsibility for purchasing materials is not that of the contractor. There also can be more opportunities for disagreements between the city, architect, and contractor.

Note – Occasionally, the League is asked about whether cities can utilize a Construction Manager- At Risk project delivery method (often referred to as “CMAR” or “CM/GC”). A traditional Construction Manager at Risk method (where the Construction Manager awards the subcontracts) is not possible for cities because it does not comply with competitive bidding laws. It may be possible to conduct a modified form of Construction Manager- At Risk where the city itself conducts competitive bidding on the subcontracts or prime contracts. However, drafting these documents and utilizing this method requires involvement of experienced construction attorneys.

3. Design/build

With design/build, the city hires a firm whose architect and contractor design and construct the building. The design/build construction method does offer advantages over other construction methods, but it is not suited to every construction project. In addition, design/build contracts must still comply with competitive bidding laws. Currently, only the state of Minnesota is expressly authorized to use the design/build process (although it has been authorized for local governments in the past as part of a pilot project). These types of contracts are complex and fact-specific. Cities considering using this method should consult with their city attorney.

RELEVANT LINKS:

[Minn. Stat. § 465.71.](#)

[Minn. Stat. § 412.221, subd. 2.](#)

[Minn. Stat. § 412.221, subd. 2.](#)

[Minn. Stat. § 410.33.](#)

The strengths of the design/build delivery method are that the construction and design costs are established early and the responsibility for the entire project is with one firm. As a result, the architect and the contractor work together on the project. This type of procedure may also be faster because the construction can begin while the final design is still being finished.

The weaknesses of the design/build method are that the project may not be completely planned in advance, and the city may have less access to and control over the architect. Additionally, there is often little opportunity for outside checks and balances by other professionals because the responsibility for the project rests with one organization.

4. Lease purchase agreements

Cities may lease real or personal property with an option to buy under a lease purchase agreement. For the purpose of the bid requirements, the amount of the contract must include the total of all lease payments for the entire term of the lease. The city must have the right to terminate a lease-purchase agreement at the end of any fiscal year during its term and should be certain that any lease-purchase agreement contains language that gives it this right.

5. Conditional sales contract

Statutory cities may purchase personal property under a conditional sales contract. The purchase price must be paid within five years. The seller is limited to the recovery of the property in the case of nonpayment.

The city must publish a resolution stating its intent to enter into a conditional sales contract for a purchase if the contract price exceeds 0.24177 percent of the estimated market value of the city. The publication must occur at least 10 days before the city makes the contract.

If 10 percent of the number of voters who voted in the last regular city election submits a petition asking for an election, the city cannot enter into the contract until the purchase is approved at an election.

Home rule charter cities may enter into a conditional sales contract even if their charters are silent on this matter.

6. Total cost bidding

Traditional bidding on an item of equipment has focused exclusively on the purchase price. This method has the advantage of simplicity and in many cases is adequate to ensure the lowest overall cost.

RELEVANT LINKS:

Otter Tail Power Co. v. Village of Elbow Lake, 234 Minn. 419, 49 N.W.2d 197 (1951).

Otter Tail Power Co. v. Village of Wheaton, 235 Minn. 123, 49 N.W.2d 804 (1951).

A.G. Op. 707a-7 (Jan. 9, 1968).
A.G. Op. 707a-7 (June 12, 1967).

A.G. Op. 707-a-6 (Aug. 21, 1950).

A.G. Op. 707-D-6 (Aug. 9, 1946). A.G. Op. 707-B-7 (Nov. 14, 1947). A.G. Op. 707-B-7 (July 22, 1947). A.G. Op. 707-B-7 (May 21, 1946). A.G. Op. 707-B-7 (July 16, 1946).

In making some purchases of equipment, however, lowest purchase price bidding may ignore other important elements of the cost. To take account of these costs, some cities have used a method known as total cost bidding. Under this system, the city considers all of the costs of purchasing, owning, operating, and maintaining the equipment it will purchase. Specifications require vendors to bid not only the initial price of the equipment, but also a number of minimum after-purchase costs for a specific period, such as maintenance. The bid is generally backed by a bond to ensure performance by the vendor.

Total cost bidding is not specifically authorized by statute in Minnesota. Arguments have been made that such bidding violates competitive bidding requirements because it restricts competition.

The Minnesota Supreme Court has never considered the validity of such bidding, although it has held that a council has reasonable discretion in determining the lowest responsible bidder.

The attorney general has issued mixed opinions regarding total cost bidding. It was upheld in a situation where bidders were required to include both a provision for a guaranteed minimum repurchase price and for a guaranteed maximum repair cost. The reason behind this conclusion was that such specifications were reasonably designed to give all contractors an equal opportunity to bid. In addition, the specifications seemed to ensure taxpayers would get the best bargain for the least money. In an earlier opinion, the attorney general had disapproved of total cost bidding.

7. Cost-plus contracts

Cities may not make cost-plus contracts for construction work of any kind. Cost-plus contracts are those in which the governing body agrees to pay the contractor for all costs the contractor incurs on the project plus some additional sum of money. In effect, there is no competition on the cost of labor or materials and no indication of how much work is required or will be done. As a result, there is no basis for comparing the bidders except on the percentage for overhead and profit.

The attorney general has advised that a bid on a cost-plus basis does not meet the statutory provisions for competitive bidding.

An alternative to the cost-plus system in times of labor and material shortages, and possible rising prices, is to use an escalator clause in advertising for bids. Under such a clause, contract prices go up automatically with inflation according to a fixed formula prescribed in the contract. The attorney general has issued mixed opinions on the use of escalator clauses.

RELEVANT LINKS:

[Minn. Stat. § 574.26](#)
[Minn. Stat. § 471.345, subd. 3](#)

[Goodin Co. v. City of Prior Lake](#), No. A14-1144 (Minn. Ct. App. Mar. 9, 2015) (unpublished opinion).

[Green Elec. Systems, Inc. v. Metropolitan Airports Com'n.](#), 486 N.W.2d 819 (Minn. Ct. App. 1992).

[Local Oil Co., Inc. v. City of Anoka](#), 303 Minn. 537, 225 N.W.2d 849 (1975).

[Minn. Stat. § 574.29](#)
[Collins Elec. Systems, Inc. v. Redflex Traffic Systems, Inc.](#), No. A07-0675 (Minn. Ct. App. Apr. 8, 2008) (unpublished opinion).

[Minn. Stat. § 574.26, subd. 3](#)
Office of the State Auditor,
Statement of Position:
Contract Change-Orders and
Contractor's Bonds, Revised
Aug. 2012.

[Minn. Stat. § 574.27](#)

B. Bonds

While some bonds are specifically required by statute, others are not. Cities often choose to require them to protect the city from costs that it may incur resulting from these contractual relationships.

1. Performance and payment bonds

Before any contract for public work over \$175,000 becomes binding, the contractor must provide a performance bond and a payment bond to the city. (Cities may choose to waive these bonds for projects of \$175,000 or less.) Whether a contract is one for doing of public work “depends on ownership of project, funding of project, scope of municipality’s participation in project, and extent project is put to public use.”

The bond amounts must each be in at least the amount of the contract. The performance bond is to guarantee that the contractor will complete the contract according to its terms and conditions and to protect the city from all costs and charges that may accrue in the course of completing the work. The payment bond is to ensure that all workers, subcontractors, and persons furnishing materials are paid.

If a city fails to get a payment bond from a contractor, it can be held liable for losses to any workers, subcontractors, and persons who furnish materials if the contractor doesn’t pay them. The city should make sure all subcontractors and material suppliers have been paid by the contractor before making final payment to a contractor.

Although a payment bond and a performance bond are not required for contracts that are \$175,000 or less, cities may want to require these bonds for all contracts.

If the contract price for public work increases due to change orders, unforeseen conditions, cost overruns, or any other reason after the contract is signed, the governing body has the option of increasing the amount of the contractor’s payment bond or performance bond.

2. Bid bonds

Cities may require bidders to submit a bid bond with their bids. Generally, a bid bond ensures the city does not waste its time with a frivolous bid. It guarantees the bidder will enter into a contract with the bid that was submitted and provide the required bonds and insurance.

RELEVANT LINKS:

[Minn. Stat. § 429.041, subd. 1.](#)

[Minn. Stat. § 574.27.](#)

[Minn. Stat. § 176.182.](#)

[Minn. Stat. § 290.92.](#)
[Minn. Stat. § 270C.66.](#)
[Fact Sheet 13 *Construction Contracts with State or Local Government Agencies*, Minnesota Revenue, Rev. Dec. 2012.](#)
[Form IC-134.](#)

[Minn. Stat. § 16C.05, subd. 5.](#)

There is no statutory requirement that bidders must submit a bid bond on contracts. However, bidders on projects made under the special assessment statutes must submit a cash deposit, cashier's check, bid bond, or certified check payable to the clerk for such percentage of the amount of the bid as the council specifies. Some home rule charters contain similar provisions that require bid bonds.

If a city requires bidders to submit bid bonds, it is responsible for returning the bid bonds to the bidders whose bids were not accepted. The city must also return the bid bond to the winning bidder after he or she has entered into the contract and provides acceptable security.

C. Miscellaneous considerations

The following is a brief overview of some of the more important considerations when making contracts. It is not intended as a complete list, and a city should have its attorney review any contract prior to its execution.

1. Workers' compensation

A city may not enter into a contract for any public work until it has received from all other contracting parties proof of compliance with the workers' compensation insurance requirements. This means the contractors must show they are self-insured, carry workers' compensation insurance for their employees, or are exempt from having to provide such insurance. Proof of compliance should be kept by the city but does not need to be filed or reported to any state agency.

2. Income tax withholding

Cities may not make final payment to a contractor until the contractor has shown proof of compliance with the state income tax withholding requirements. The Department of Revenue requires all contractors and subcontractors to file a Form IC-134 to show compliance with the withholding requirements. This certificate is the contractor's proof of compliance. A city should request a copy of this document from contractors before making the final payment on a contract.

3. Audits

A contract must include an audit clause that provides that the books, records, documents, and accounting procedures and practices of the contractor relating to the contract are subject to examination by the city and the state auditor for a minimum of six years.

RELEVANT LINKS:

[Minn. Stat. § 13.05, subd. 11](#)

[Minn. Stat. § 471.425, subd. 4a.](#)

[Minn. Stat. § 337.05.](#)
LMCIT staff can assist in reviewing city contracts, especially provisions related to insurance and liability. For more information, contact Chris Smith, Risk Management Attorney, at esmith@lmc.org or 651-281-1269

[Minn. Stat. § 337.02.](#)
[Minn. Stat. § 337.05.](#)

See LMC information memo, *Making and Managing City Contracts*, for more information.

4. Data practices compliance

When a city contracts with a private person to perform governmental functions, it must include language in the contract stating that all of the data created, collected, received, stored, used, maintained, or disseminated in performing the governmental functions are subject to the requirements of the Minnesota Government Data Practices Act, and that the private person must comply with those requirements as if it were a governmental entity. A city's failure to include this data practices language in a contract does not invalidate the application of these requirements.

5. Prompt payment of subcontractors

A city contract must require the prime contractor to pay:

- Subcontractors for undisputed services within 10 days of the prime contractor's receipt of payment from the city.
- Interest of 1.5 percent to the subcontractor if the payment is late.
- A minimum monthly interest penalty payment of \$10 for an unpaid balance of \$100 or more.

6. Indemnification

Indemnification agreements generally provide that the contractor promises to defend, indemnify, and hold the city (and its agents and employees) harmless from any and all damages arising out of the contract. These clauses are enforceable in some limited circumstances, such as where the contractor fails to comply with a contract provision to furnish a bond or insurance policy that would protect the city from liability arising out of the project.

However, in other instances, indemnification agreements may have limited enforceability. For example, they are unenforceable in construction contracts except to the extent that:

- The underlying injury or damage is attributable to the negligence or other wrongful act of the contractor or its independent contractors, agents, employees, or delegates.
- The city agrees to indemnify the contractor with respect to strict liability under environmental laws.

A city should also have the contractor name the city as an additional insured under the contractor's insurance policy. The city should require the contractor to provide a copy of this endorsement, as well as any appropriate certificates of insurance.

RELEVANT LINKS:

Minn. Stat. § 181.59
Borum v. City of St. Paul, 289
Minn. 371, 184 N.W.2d 595
(1971).

Minn. Stat. §§ 177.41-44
A.G. Op. (Jan. 14, 1988)
A.G. Op. (July 15, 1988).

NewMech Co. v. Indep. Sch.
Dist. No. 206, 540 N.W.2d
801 (Minn. 1995).

40 U.S.C. §§ 3141-3148.

7. Non-discrimination

All public contracts for materials, supplies, or construction must contain a statement where the contractor promises not to discriminate against prospective employees because of race, creed, or color. In addition, many state and federal grants contain requirements that construction contracts include language to ensure contractors do not discriminate with regard to age, race, sex, religion, nationality, and disability.

8. Prevailing wage

The wages paid to those working on city projects may also be a concern.

a. Minnesota law (Little Davis Bacon)

The wages of laborers, workers, and mechanics on projects financed in whole or in part by state funds should be comparable to wages paid for similar work in the community as a whole.

There is no clear definition of what constitutes “state funds” for the purpose of this requirement. Certainly, the definition would include any specific state grants a city might get for a particular project. It also may include such things as local government aid and other state aids.

Some have claimed money that has been kept in the same fund with any of these types of aids would qualify as state funds since it has commingled with such funds.

However, the Minnesota Supreme Court found that Debt Service Equalization Aid (DSEA) and Homestead and Agricultural Credit Aid (HACA) did not trigger the prevailing wage requirements in a school construction contract. The reasoning behind this decision was that these aids lacked a direct relationship to the project.

If a city has any doubts, it will probably want to be sure that at least the prevailing wages are paid. Otherwise, a city may want to be certain only non-state funds, or money that has been kept separate from anything that might be seen as state funds, are used to pay for the project.

b. Federal law (Davis Bacon)

There is a similar federal prevailing wage requirement for all public work contracts in which the United States or the District of Columbia is a party.

9. Project labor agreements

A project labor agreement (PLA) is an agreement between the city’s contractor and a union that is sometimes required by cities.

RELEVANT LINKS:

Queen City Constr., Inc. v. City of Rochester, 604 N.W.2d 368 (Minn. Ct. App. 1999).

Minn. Chapter of Associated Builders and Contractors, Inc. v. Minnetonka Indep. Sch. Dist. No. 276, C2-99-837 (Minn. Ct. App. Dec. 28, 1999) (unpublished opinion).

A.G. Op. 707a-15 (Oct. 8, 1945).

Minn. Stat. § 429.041, subd. 1.

See Section 1.1, *Exemptions, exceptions, and alternatives*.

Minn. Stat. § 429.041, subd. 7.

Under this type of agreement, the project's contractor agrees to designate a particular labor organization as the exclusive bargaining representative for all employees working on the project. In addition, the contractor agrees to employ only contractors and subcontractors who agree to abide by the terms of a specific collective bargaining agreement. In return, the union agrees there will be no strikes, picketing, slowdowns, or similar disruptions during the project.

The Minnesota Court of Appeals appears to support the ability of cities to require PLAs. In a 1999 decision, the Minnesota Court of Appeals found that nothing in Minnesota law prevents a public entity from imposing a bid specification that requires successful bidders to sign a PLA.

In a challenge to a school district's PLA requirement on a construction project, the contractor claimed the PLA had an anti-competitive effect. However, in an unpublished decision, the court found that a PLA would not have an anti-competitive effect because Minnesota's prevailing wage law would require contractors on a project to pay wages essentially equivalent to union wages.

D. Contractual changes after award

Sometimes, changes to a contract are considered after the contract has been awarded.

1. Adding on to contracts

When one construction job is the subject of competitive bidding and the contract has been let, another job may not be added to the contract at a later time. This would give the contractor an unfair advantage since other prospective contractors did not have an opportunity to bid on the second job. However, cities may combine two or more improvements in one advertisement and in one contract, if the contract is made under the special assessment statutes.

A change to add new work to a contract may not need to be competitively bid if the total added cost is \$175,000 or less. Because the cost is below the competitive bidding threshold, it is arguable that bidding would not be mandatory. However, cities should exercise caution in this area.

A city council may authorize changes in a unit price contract that is made under the special assessment statutes.

After the work on a unit price contract has begun, the council may authorize additional units of work at the same unit price, as long as the total contract price does not increase by more than 25 percent. The city may do this without re-advertising for bids.

RELEVANT LINKS:

Village of Excelsior v. F.W. Pearce Corp., 303 Minn. 118, 226 N.W.2d 316 (1975)

Carson v. City of Dawson, 129 Minn. 453, 152 N.W. 842 (1915)

Buchman Plumbing Co., Inc. v. Regents of the Univ. of Minn., 298 Minn. 328, 215 N.W.2d 479 (1974)

Lundstrom Constr. Co. v. Dygert, 254 Minn. 224, 94 N.W.2d 527 (1959)

Shaw v. First Baptist Church of Winona, 44 Minn. 22, 46 N.W. 146 (1890)

Carson v. City of Dawson, 129 Minn. 453, 152 N.W. 842 (1915)

In applying this provision, a court approved the addition to the contract of one political subdivision of units of work to be done by another political subdivision, as long as the 25 percent restriction was not exceeded. The court found the variable in the contract was the total estimated number of units and the constant was the unit price. Therefore, no harm resulted from amending a factor that may change under many different circumstances. The harm to protect against was an unreasonable unit price, and that factor was not a proper subject of the contract modification.

2. Changes in work

A city may be able to make alterations or require extra work because of errors in plans, unforeseen conditions, or other similar reasons.

Construction contracts often contain language that authorizes these types of necessary changes. Such provisions may permit a city to make some minor changes in the work, if the changes are ordered in writing. However, cities should use caution when ordering changes in work since this type of requirement has given rise to a considerable amount of litigation.

Sometimes these provisions include a requirement that estimates must accompany or precede the order. These provisions are generally valid. A provision requiring written notice to the city of claims for extra cost is similar in effect.

Such provisions are intended as a check on the contractor, and, being for the benefit of the city, may be insisted upon or waived depending upon what best suits the city's needs.

When the contract with the principal contractor contains such a notice provision, it is applicable to both the principal contractor and any subcontractors involved on the project.

What constitutes "extras" has also been the subject of litigation. For example, a city contract provided that the city had the right to make alterations in extent, dimensions, form of plans, or location of the work, and also provided that no claims for extra labor or material were allowed unless ordered in writing by the city. Here, the court found these provisions to be independent. As a result, when the changes that were made increased the expense, the contractors could recover the value of the necessary labor and material even though no written order had been given.

If the "extras" are needed because of errors in the specifications or unforeseen conditions, the contractor may have a right to recover because of misrepresentation. In this type of situation, a written order would not be necessary.

RELEVANT LINKS:

Minn. Stat. § 574.26,
*Office of the State Auditor,
Statement of Position:
Contract Change-Orders and
Contractor's Bonds*, Revised
Aug. 2012.

McCree & Co. v. State, 253
Minn. 295, 91 N.W.2d 713
(1958)

*Stanton v. Morris Constr.
Co.*, 159 Minn. 380, 199
N.W. 104 (1924).

Sives v. Leonard, 20 Minn.
494 (1874).
*Friederick v. Redwood
County*, 153 Minn. 450, 190
N.W. 801 (1922).

Minn. Stat. § 471.345, subd.
14, *Rochon Corp. v. City of
St. Paul*, 831 N.W.2d 651
(Minn. Ct. App. 2013)

*Kotschevar v. North Fork
Township*, 229 Minn. 234, 39
N.W.2d 107 (1949).
*Buffalo Bituminous, Inc. v.
Maple Hill Estates*, 311
Minn. 468, 250 N.W.2d 182
(1977).

If the contract price increases due to change orders, unforeseen conditions, cost overruns, or any other reason after the contract is signed, the governing body has the option of increasing the amount of the contractor's payment bond or performance bond.

3. Different conditions

Often a contractor finds that the conditions, such as underlying soil, rock, or water, are different from those in the specifications. Sometimes conditions have changed since the contract was let. These are among the most common causes of disputes between a contractor and a city.

If the specifications assume conditions different from the actual conditions, and, as a result, it costs more to perform the contract, the contractor may recover damages sustained as a result of having relied on the specifications.

If the discrepancy is discovered before performance begins, the contract might be voided. In one case, the court found that a bidder on a highway contract could recover losses from having relied on inaccurate specifications, even though the specifications included a warning that they could differ from the true conditions.

On the other hand, a contractor who makes an absolute and unqualified contract to perform a given undertaking assumes the risks. As a result, the contractor is liable for any failure to perform the contract even though costs may be much more than contemplated. In an extreme case, a contractor had twice built part of a building that fell down because of alleged quicksand. The court said that no difficulty short of absolute impossibility would excuse the contractor from doing what he expressly agreed to do.

Specifications and contracts that include a provision for making adjustments for unknown difficulties may result in lower bids when there is a possibility of such difficulties. Without such a provision, cities may find the bids will be higher because bidders have to anticipate possible bad site conditions.

IV. Violations

An unsuccessful bidder may challenge the validity of a contract in court. If the contract was made without following the competitive bidding requirements, the contract is void and the unsuccessful bidder may be awarded the costs of preparing the unsuccessful bid. A court may not award an unsuccessful bidder damages or attorney's fees.

When a contract is found to be void, it is no longer a legally enforceable agreement. However, this does not mean the supplier of the goods or services has no remedy. Minnesota courts have held that cities are liable to the seller or contractor for the benefit received by the city.

RELEVANT LINKS:

Williams v. Nat'l Contracting Co., 160 Minn. 293, 199 N.W. 919 (1924).

Fargo Foundry Co. v. Village of Calloway, 148 Minn. 273, 181 N.W. 584 (1921).

Elec. Unlimited, Inc. v. Village of Burnsville, 289 Minn. 118, 182 N.W.2d 679 (1971).

Major Indus., Inc. v. Krech, Ojard & Associates, Inc., No. A04-1052 (Minn. Ct. App. Dec. 21, 2004) (unpublished opinion).

Sanborn v. Neal, 4 Minn. 126 (1860).

The reasoning behind this conclusion is that it would be unfair for the city to use the supplier's goods or services and not pay for what it has received because of its violation of the competitive bidding law. However, this is generally only the case if the contract was entered into in good faith and was a contract the city had the power to make.

A foundry was permitted to recover the value of the benefits received by the village under a contract to rebuild and repair a water tower and steam-heating system. The contract itself was unenforceable because of the failure to advertise for bids. Recovery was not permitted for the value of the material and cost of labor. However, the contractor did recover payment for the amount of benefit actually received by the village.

This rule for recovery based on benefits received applies only when the contract has been performed or partly performed. Before its performance, the contract may be set aside or found void through a court action. Once a contract is void, the city may not compel its performance.

When an item to be purchased is capable of exact specifications, the court may prevent the award to a bidder where there is evidence that another bidder with a lower bid met the advertised specifications in all material respects. However, because the council has reasonable discretion, a court will not require the city to award a contract to a particular bidder.

In an unpublished decision, the Minnesota Court of Appeals held that the statute prohibiting specifications that exclude all but one type of supplies or equipment does not authorize private actions by individuals for damages. In this case, the Court dismissed a claim by a skylight manufacturer against a school district for damages based on its claim that the school district had violated the statute by using specifications that required a particular manufacturer and type of skylight for a construction project.

Generally, a councilmember who makes a contract on behalf of the city without advertising for bids would not be personally liable for damages resulting from the illegal contract, if acting in good faith. Of course, if the action is a deliberate evasion of the bid requirement, the councilmember may be criminally liable since the cases that have exempted councilmembers from civil liability have been limited to instances in which the official acted in good faith.

V. Federal anti-trust legislation

Anti-trust laws were passed to protect our economic system from the monopolization of businesses and the restraint of trade. These laws have been found to apply to the practices of cities as well as businesses. It is important that cities keep these laws in mind when selling, purchasing, or making contracts.

RELEVANT LINKS:

15 U.S.C. §§ 1-7.

15 U.S.C. §§ 12, 13, 14-19, 22-27.

15 U.S.C. §§ 13a, 13b, and 21a.

City of Columbia v. Omni Outdoor Adver., Inc., 499 U.S. 365, 111 S. Ct. 1344 (1991).

The laws do not specify what damages may be awarded in a successful lawsuit against a city. However, a contract could be voided and a successful challenger could be awarded attorney's fees.

A. Anti-trust acts

The three most important anti-trust laws work in conjunction with one another.

1. The Sherman Act

The Sherman Act prohibits monopolies and attempts (or conspiracies) to monopolize.

Agreements between buyers not to purchase from a particular seller may be a violation of the Sherman Act. An agreement among competing buyers to prevent competition in their purchasing or to control prices may also violate this act.

2. The Clayton Act

The Clayton Act generally prohibits price discrimination and certain mergers and acquisitions. It also prohibits the sale or lease of goods conditioned upon a buyer's agreement not to use the goods of a competitor. Such practices could result in substantially less competition or tend to create a monopoly.

3. The Robinson-Patman Act

The Robinson-Patman Act was adopted to amend the price discrimination part of the Clayton Act. It prohibits sellers from setting unreasonably low prices for the purpose of driving out competitors. It also prohibits sellers from charging different prices for the same item based upon geographic location for the purpose of driving out competitors. In addition, the law makes it a crime for buyers to knowingly induce or receive an illegal discriminatory price.

B. Application to cities

Decisions made by the United States Supreme Court have made it clear that federal anti-trust laws can apply to cities. As a result, it is important for cities to keep these laws in mind when contracting and purchasing. The state's immunity from the federal anti-trust laws does not apply directly to local governments. However, a city may have immunity if acting under a clearly expressed state policy.

RELEVANT LINKS:

See Section II. A.
Preparation of bid specifications.

Minn. Stat. §§ 471.87- 89.
LMC information memo,
Official Conflict of Interest.

Minn. Stat. § 471.895.

See Section II. D. 1. *Lowest responsible bidder.*

At a minimum, city officials should add an anti-trust mindset, like their current anti-discrimination mindset, to their mental checklist of considerations before acting and speaking about city purchases and contracts. They should resolve to act openly through formal meetings, and keep a well-documented record through minutes, formal findings, and resolutions setting out exactly what was done and why.

The following should be kept in mind to keep purchases and contracts free of anti-trust problems:

- Use competitive bids or quotations even when the law does not require them.
- Avoid using vendor-furnished specifications that might unnecessarily limit competitive bidding. When consultants prepare bid specifications, they generally should not bid on the contract.
- Avoid purchasing from a company in which a councilmember or other city decision maker in the purchasing process has an interest (this is also prohibited under the state's conflict of interest laws).
- Avoid informal, unrecorded communications with suppliers.
- Do not accept gifts from suppliers (something generally prohibited by the state gift law).
- Be sure that when performance bonds or bid bonds are required they are either legally necessary or are for the purpose of ensuring responsible bidders. Bond requirements can serve as a restriction on bidders and may not be necessary when purchasing standard materials.
- Be wary of giving local vendors preference in public purchasing when it limits competition. This does not mean cities must avoid contracting with a local vendor when all other things are equal. Likewise, if the bidder's location has an impact on the contract's cost (such as for delivery charges or repairs), it may be an important factor to consider when determining the lowest responsible bidder.
- Emphasize non-restrictive specifications that facilitate competitive bidding.

RESOLUTION #1234

11c

A RESOLUTION ESTABLISHING ELECTRIC RATES FOR CUSTOMERS SERVED BY SHAKOPEE PUBLIC UTILITIES

BE IT RESOLVED BY THE SHAKOPEE PUBLIC UTILITIES COMMISSION at meeting duly assembled on the 3rd day of December, 2018, that Resolution #1100 is repealed upon this resolution taking effect, and that the following electric rates shall be and hereby are established for applicable customers of the Shakopee Public Utilities Commission, City of Shakopee.

Section I: RESIDENTIAL SERVICE:
Availability: Residential dwellings

The sum of:

Service Charge:	\$9.00 per month
Energy Charge:	\$0.0988 per KWH
Power Cost Adjustment:	set by separate resolution
Conservation Program Charge:	set by separate resolution

Minimum bill: the Service Charge

Section II: RESIDENTIAL WATER HEATING: (CLOSED)

Availability: Existing installations only

The sum of:

Service Charge:	\$9.00 per month
Energy Charge:	\$0.0988 per KWH
Power Cost Adjustment	set by separate resolution
Conservation Program Charge:	set by separate resolution

The minimum monthly bill for water heating service is the Service Charge.

The Service Charge will be waived where the customer also takes electric service other than water heating under another standard rate.

Section III: RESIDENTIAL SERVICE WITH DUAL FUEL HEAT: (CLOSED)

Availability:

Existing installations only.
Residential customers with separately metered electric heat and a backup heat source.
The electric heat is subject to interruption.
Service is through separate meter for electric heat, with approved control device.

The sum of:

All charges and terms applicable to RESIDENTIAL SERVICE, except:

Energy Charge:	\$0.0882 per KWH
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Section IV: SEPARATE METERED AIR CONDITIONING: (CLOSED)

Availability:

Existing installations only.

Residential customers with separately metered air conditioning subject to interruption.

Service is through separate meter for air conditioning, with approved control device.

The sum of:

All charges and terms applicable to RESIDENTIAL SERVICE, except:

Energy Charge: \$0.0882 per KWH

Section V: SERVICE FOR SENIOR CITIZENS:

Availability: Residential dwelling occupied by senior citizen(s)

The sum of:

Service Charge: \$6.00 per month

Energy Charge: \$0.0988 per KWH

Power Cost Adjustment: set by separate resolution

Conservation Program Charge: set by separate resolution

Minimum bill: the Service Charge

Section VI: COMMERCIAL SERVICE:

Availability: Non-residential customers with less than 15 KW Demand

The sum of:

Service Charge: \$14.00 per month

Energy Charge: \$0.0944 per KWH

Power Cost Adjustment: set by separate resolution

Conservation Program Charge: set by separate resolution

Minimum bill: the Service Charge

Section VII: LARGE GENERAL SERVICE:

Availability: Non-residential customers with demand of 15 KW but less than 150 KW. Service above 75 KW is 3 phase only, except by written exception.

The sum of:

SERVICE CHARGE: \$60.00 per month

DEMAND CHARGE:
All KW of billing demand \$9.50 per KW

ENERGY CHARGE:
All KWH per month \$0.0585 per KWH

Section VII: continued

POWER COST ADJUSTMENT set by separate resolution

CONSERVATION PROGRAM CHARGE: set by separate resolution

Minimum monthly bill: the Service Charge plus the Demand Charge

Billing Demand:

The billing demand shall be the customer's greatest 15 minute demand in kilowatts, incurred during the month for which the bill is rendered, but not less than 60% of the highest demand during the preceding 11 months or 15 KW, whichever is greater.

Section VIII: LARGE INDUSTRIAL SERVICE:

Availability: Non-Residential customer with demand of 150 KW and over.

The billing demand shall be as described in this section.

The sum of:

SERVICE CHARGE: \$100.00 per month

DEMAND CHARGE:

All KW of billing demand \$9.50 per KW

ENERGY CHARGE:

First KW/H's up to 400 hours times the billing Demand \$0.0585 per KWH

All KW/H's in excess of 400 hours times the billing Demand \$0.0523 per KWH

POWER COST ADJUSTMENT set by separate resolution

CONSERVATION PROGRAM CHARGE: set by separate resolution

Minimum monthly bill: the Service Charge plus the Demand Charge

Determination of billing Demand:

The billing demand shall be the customer's greatest 15 minute demand in kilowatts, incurred during the month for which the bill is rendered, but not less than 60% of the highest billing demand during the preceding 11 months or 15 KW, whichever is greater.

The customer agrees to maintain an average power factor at or above 90%. If the average power factor is less than 90% lagging, the billing demand shall be adjusted by multiplying the actual 15 minute demand measured during the month by the ratio of 90% to the average power factor expressed in percent.

Average Power Factor:

The average power factor is defined to be the quotient obtained by dividing the KWH used during the month by the square root of the sum of the squares of the KWH used and the lagging reactive kilovolt-ampere-hours supplied during the same period. Any leading kilovolt-ampere-hours supplied during the period will not be considered in determining the average power factor.

Section IX: LOW LOAD FACTOR CLAUSE:

A customer, whose usage characteristic is routinely below a 5 percent monthly load factor, may apply to the Utilities Commission for assignment to another non-demand rate schedule. Consideration will be given to the contribution in aid of construction made by the customer to offset capital investment by the Shakopee Utilities, and may include other factors.

Section IX: continued

Any assignment granted will continue only for the period of time specified, and billing will revert to the standard rate schedule at the end of that period, except when the assignment is cancelled before the end of that period by the Utilities Commission. The Utilities Commission reserves the right to cancel an assignment granted under this section, and such cancellation may occur without prior notice.

Section X: LIMITED OFF PEAK CLAUSE:

A customer normally billed under a demand rate schedule, who anticipates a single instance usage of energy which is not typical for their service, may apply to the Utilities Commission in advance of the occurrence for an advanced waiver of the demand charges for that single instance of usage. Consideration will be given to the estimated cost of purchased power for the period of time covered by the single instance usage, the ability of the facilities in place to accommodate the unusual load, and may include other factors.

Any advance waiver granted will apply only for the period of time specified, and billing will revert to the standard rate schedule at the end of that period, except when the waiver is cancelled before the end of that period by the Utilities Commission. The Utilities Commission reserves the right to cancel the waiver granted under this section, and such cancellation may occur without prior notice.

Section XI: THE FOLLOWING CLAUSES APPLY TO ALL RATES:

MONTHLY BILLS:

The monthly bill is the sum of the Service Charge, Energy Charge, Power Cost Adjustment, and Conservation Charge.

In addition to the forgoing, monthly bills also include the sum of the Demand Charge, and any adjustments for Power Factor and/or other adjustments referenced in this or other rate resolution of the Shakopee Public Utilities Commission.

Minimum bill provisions, late charges, penalties, and special charges, also apply.

POWER COST ADJUSTMENT:

There may be added to or deducted from the monthly bill a Power Adjustment charge, as set by Shakopee Public Utilities Commission Resolution.

CONSERVATION PROGRAM CHARGE:

A charge will be added to the monthly bill to fund a Conservation Program as mandated by the State of Minnesota and voluntary programs of similar nature by the Shakopee Public Utilities. The amount of the charge will be set by Shakopee Public Utilities Commission Resolution.

PRIMARY METERING:

At the option of the electric department, secondary voltage service hereunder may be metered at the primary voltage, in which case a 2% cash discount will be allowed on the amount of the monthly bill, with the discount applied to all charges except the power adjustment charge.

PRIMARY VOLTAGE SERVICE:

If the customer agrees to take service at the primary voltage available at his location and to pay all costs incurred in the ownership, operation and maintenance of transformers and substation equipment (except meters) with service to be metered at the primary voltage, a cash discount of 5% will be allowed on the amount of the monthly bill, with the discount applied to all charges except the power adjustment charge.

Section XI: continued

AVERAGE POWER FACTOR:

The average power factor is defined to be the quotient obtained by dividing the KWH used during the month by the square root of the sum of the squares of the KWH used and the lagging reactive kilovolt-ampere-hours supplied during the same period. Any leading kilovolt-ampere-hours supplied during the period will not be considered in determining the average power factor.

LOAD FACTOR:

Load factor is defined to be the quotient obtained by dividing the KWH used during the month, by the KW demand during the same period, and dividing the result by the number of hours in that billing period.

MINIMUM POWER FACTOR REQUIREMENT:

The customer must maintain an average power factor not less than 80% lagging, and avoid leading power factor at any time.

DEPOSIT REQUIRED:

Deposit requirements shall be consistent with terms outlined in a separate resolution of the Shakopee Public Utilities Commission.

PROMPT PAYMENT PROVISION:

A penalty of 5% shall be added to the current bill if not paid on or before the due date specified on the monthly Statement of Account following the date of billing.

Section XII: LARGE INDUSTRIAL SERVICE - with Time Of Use Option:

Availability: Non-Residential customer with demand of 1,000 KW and over, who would otherwise be subject to the requirements of Section VIII of Resolution #1223.

Limitations to Availability: Due to the exploratory basis on which Time Of Use Service is being offered, the availability of such service terms under Resolution #1223 is limited to one customer, and further subject to such practical limitations as may exist involving the availability of technology and the administrative practices to provide billing under such TOU rates.

The billing demand shall be as described in this section.

The sum of:

SERVICE CHARGE: \$120.00 per month

DEMAND CHARGE:

On-peak KW of billing demand \$9.50 per KW

Off-peak KW of billing demand
in excess of On-peak KW
of billing demand \$3.00 per KW

ENERGY CHARGE:

On-peak KWH's \$0.0636 per KWH

Off-peak KWH's \$0.0512 per KWH

with a credit applied to KWH's
in excess of 400 hours times
the billing demand \$0.0062 per KWH

TIME PERIODS:

On-peak period	9 a.m. - 10 p.m., M - F CST or CDT as applicable
Off-peak period	all other hours

OTHER TERMS APPLICABLE:

Service provided and billed under Resolution #1223, Section XII are subject to all terms, factors, and adjustments applicable under Resolution #1223, including the Power Cost Adjustment and other charges not itemized here; and other terms, conditions of service and policies of the Shakopee Public Utilities Commission as generally applicable.

Shakopee Utilities will make reasonable efforts to provide reliable and prompt billings within the provisions of this resolution, however, in the event of a failure to provide reliable billing as a result of deficiency in technology or in the administrative processing of billings under TOU rates, the customer will be responsible for payment of charges determined under the standard, non-TOU rates and terms provided under Resolution #1223.

Section XIII: SHAKOPEE ENERGY PARK:

Limitations to Availability: Due to the unique basis on which Wholesale Service is being offered, the availability of such service terms is limited to one customer (MMPA), and further subject to such practical limitations as may exist involving the availability of technology and the administrative practices to provide billing under such Wholesale Rates.

The billing electric service shall be as described in this section.

The sum of:

<u>SERVICE CHARGE:</u>	\$100.00 per month
<u>DEMAND CHARGE:</u>	
Summer Demand (June-Sept, \$ per Kw month)	\$14.00
Non-Summer Demand (\$ per Kw month)	\$8.90
<u>ENERGY CHARGE:</u>	
On-Peak (5x16) Energy (\$ per kWh) 7am-10pm	\$0.05101
Sat/Sun/Holiday (2x16) Energy (\$ per kWh) 7am-10pm	\$0.04351
Off-Peak (7x8) Energy (\$ per kWh) 10pm-7am	\$0.03101
Energy Adjustment Charge	varies monthly

OTHER TERMS APPLICABLE:

Service provided and billed under Section XIII are subject to all terms, factors, and adjustments applicable under Resolution #1223, excluding the Power Cost Adjustment; other terms, conditions of service and policies of the Shakopee Public Utilities Commission as generally applicable.

Shakopee Utilities will make reasonable efforts to provide reliable and prompt billings within the provisions of this resolution, however, in the event of a failure to provide reliable billing as a result of deficiency in technology or in the

administrative processing of billings under Wholesale rates, the customer will be responsible for payment of charges determined under the standard rates and terms provided under Resolution #1223.

BE IT FURTHER RESOLVED that said terms and adjustments are to become effective beginning January 1, 2019 or the nearest regular meter reading date following, and apply to usage after that date and to subsequent billings;

BE IT FURTHER RESOLVED that at all times Commission staff shall comply with good utility business practices and all applicable Federal laws and Minnesota Statutes when processing account activity, i.e. applications, establishing accounts, deposits, billings, payment receipts, reminders of non-payment, disconnect notices, etc.

BE IT FURTHER RESOLVED that said terms and adjustments are to become effective immediately, and applied to the January 2019 billings (which are due February 15), and all subsequent billings.

BE IT FURTHER RESOLVED that all things necessary to carry out the terms and purpose of the Resolution are hereby authorized and performed.

Passed in regular session of the Shakopee Public Utilities Commission, this 7th day of January, 2019.

Commission President: Aaron Weyer

ATTEST:

Commission Secretary: John R. Crooks




11d


SHAKOPEE PUBLIC UTILITIES

“Lighting the Way – Yesterday, Today and Beyond”

December 14, 2018

PROPOSE AS CONSENT

TO: John Crooks 

CC: Joe Adams
Sherri Anderson
Greg Drent
Lon Schemel
Sharon Walsh 

FROM: Renee Schmid, Director of Finance and Administration

SUBJECT: Financial Results for November, 2018

The following Financial Statements are attached for your review and approval.

Month to Date and Year to Date Financial Results – November, 2018

- Combined Statement of Revenue & Expense and Net Assets – Electric, Water and Total Utility
- Electric Operating Revenue & Expense Detail
- Water Operating Revenue & Expense Detail

Key items to note:

Month to Date Results – November, 2018

- Total Utility Operating Revenues for the month of November totaled \$3.9 million and were favorable to budget by \$10k or 0.3%. Electric revenues were unfavorable to budget by \$27k or 0.7%. Water revenues were favorable to budget by \$37k or 13.0% driven by higher than plans sales volume in all revenue groups.
- Total operating expenses were \$3.5 million and were favorable to budget by \$126k or 3.5%. Total purchased power expense in November was \$2.5 million and was \$93k or 3.8% higher than budget for the month. Total Operating Expense for electric including purchased power was \$3.2 million and was favorable to budget by \$56k or 1.7% due to higher than plan purchased power costs of \$93k, that were offset by lower than plan administrative and general expense of \$66k, lower than plan operation and maintenance expenses of \$41k, lower than plan customer accounts expense of \$15k, timing of conservation expenses of \$24k, and lower than plan depreciation expense of \$3k. Total Operating Expense for Water was \$321k and was favorable to budget by \$70k or 17.8% due to lower than plan operation and maintenance expenses of \$29k, lower than plan customer accounts of \$2k, and lower than plan administrative and general expense of \$39k.



SHAKOPEE PUBLIC UTILITIES

“Lighting the Way – Yesterday, Today and Beyond”

- Total Utility Operating Income was \$0.5 million and was \$0.1 million favorable to budget due to lower than plan operating expenses of \$0.1 million.
- Total Utility Non-Operating Revenue was \$73k and was favorable to budget by \$27k due to higher than plan investment income of \$65k, and partially offset by lower than plan rental and miscellaneous income of \$36, and higher than plan interest expense on customer deposits of \$1k.
- Capital Contributions for the month of November totaled \$631k and were favorable to budget by \$464k.
- Municipal contributions to the City of Shakopee totaled \$202k and were lower than plan by \$8.3k or 3.9%.
- Change in Net Position was an increase of \$0.9 million and was favorable to budget by \$0.6 million due to lower than plan operating expenses of \$0.1 million and lower than plan and capital contributions of \$0.5 million.
- Electric usage billed to customers in November was 33,740,944 kWh, a 12.3% decrease from October usage billed at 38,495,898 kWh. November billing included a prior period billing correction of 2,126,790 kWh for Shakopee Energy Park including 1,008,681 for 2017 kWh usage and 1,118,109 for 2018 usage from January through October.
- Water usage billed to customers in November was 88.8 million gallons, a 48.4% decrease from October usage billed at 172.3 million gallons.

Year to Date Financial Results – November, 2018

- Total Utility Operating Revenue year to date November was \$51.9 million and was favorable to budget by \$1.7 million or 3.4%. Electric revenues totaled \$46.6 million and were favorable to budget by \$1.6 million or 3.5% driven by higher than plan energy sales in all revenue groups and higher power cost adjustment revenues. Water revenues totaled \$5.3 million and were favorable to budget by \$168k or 3.4% driven by higher than plan sales volumes in all revenue groups.
- Total Utility Operating Expenses year to date November were \$44.1 million and were favorable to budget by \$0.4 million or 0.9% primarily due to timing of expenditures in energy conservation of \$0.5 million, and administrative and other general expense of \$1.1 million due to timing of employee benefits and outside services expense, and were partially offset by higher than plan purchased power costs of \$1.2 million driven by higher sales and cost of purchased power per kWh. Total Operating Expense for electric including purchased power was \$40.1 million and was favorable to budget by \$131k or 0.3%. Total Operating Expense for Water was \$4.0 million and was favorable to budget by \$274k or 6.3%.
- Total Utility Operating Income was \$7.8 million and was favorable to budget by \$2.1 million driven by higher than planned operating revenues of \$1.7 million and lower than plan operating expenses of \$0.4 million.



SHAKOPEE PUBLIC UTILITIES

“Lighting the Way – Yesterday, Today and Beyond”

- Total Utility Non-Operating expense was \$818k and was favorable to budget by \$415k due to higher than planned investment income of \$298k, higher than plan rental and miscellaneous income of \$67k, and a \$66k net gain on the sale of equipment, and was partially offset by higher than plan interest expense of \$16k due to an increase in interest rates paid customers for utility deposits. Year to date non-operating expense includes the write down of \$217k in amortization of debt issuance and loss on refunding costs reflecting the redemption of the final outstanding debt issue.
- YTD Capital Contributions were \$3.9 million and are favorable to budget by \$2.1 million due to higher than planned collection of water connection fees of \$1.8 million driven by new development, higher than plan capital contributions of \$0.5 million, and partially offset by lower than plan trunk water fees of \$0.2 million.
- Municipal contributions to the City of Shakopee totaled \$2.2 million year to date and are lower than plan by \$91k or 4.0%. The actual estimated payment throughout the year is based on prior year results and will be trued up at the end of the year.
- YTD Change in Net Position is \$10.4 million and is favorable to budget by \$4.7 million reflecting higher than plan operating income of \$2.1 million, higher than plan non-operating revenues of \$0.4 million, and higher than plan capital contributions of \$2.2 million.

SHAKOPEE PUBLIC UTILITIES
MONTH TO DATE FINANCIAL RESULTS
NOVEMBER 2018



SHAKOPEE PUBLIC UTILITIES
"Lighting the Way – Yesterday, Today and Beyond"

SHAKOPEE PUBLIC UTILITIES
COMBINED STATEMENT OF REVENUES, EXPENSES AND CHANGES IN FUND NET POSITION

	Month to Date Actual - November 2018			Month to Date Budget - November 2018			Electric		Water		Total Utility	
	Electric	Water	Total Utility	Electric	Water	Total Utility	MTD Actual v. Budget B/(W)	%	MTD Actual v. Budget B/(W)	%	MTD Actual v. Budget B/(W)	%
OPERATING REVENUES	\$ 3,621,772	322,535	3,944,307	3,649,009	285,412	3,934,422	(27,237)	-0.7%	37,122	13.0%	9,885	0.3%
OPERATING EXPENSES												
Operation, Customer and Administrative	2,970,480	191,344	3,161,824	3,023,254	261,294	3,284,548	52,774	1.7%	69,950	26.8%	122,724	3.7%
Depreciation	198,268	129,257	325,525	199,558	128,912	328,470	3,290	1.6%	(344)	-0.3%	2,945	0.9%
Amortization of Plant Acquisition	-	-	-	-	-	-	-	0.0%	-	-	-	0.0%
Total Operating Expenses	3,166,748	320,600	3,487,348	3,222,812	390,206	3,613,018	56,064	1.7%	69,606	17.8%	125,670	3.5%
Operating Income:	455,024	1,934	456,958	426,198	(104,794)	321,404	28,826	6.8%	106,728	101.8%	135,555	42.2%
NON-OPERATING REVENUE (EXPENSE)												
Rental and Miscellaneous	(21,415)	2,282	(19,133)	15,783	1,380	17,173	(37,199)	-235.7%	892	84.2%	(36,308)	-211.4%
Interdepartment Rent from Water	7,500	-	7,500	7,500	-	7,500	-	0.0%	-	-	-	0.0%
Investment Income	69,031	18,531	87,562	16,940	5,511	22,451	52,092	307.5%	13,020	236.2%	65,112	290.0%
Interest Expense	(3,127)	(97)	(3,224)	(1,805)	(29)	(1,834)	(1,322)	-73.2%	(69)	-239.2%	(1,390)	-75.8%
Amortization of Debt Issuance Costs and Loss on Refunding	-	-	-	-	-	-	-	0.0%	-	-	-	0.0%
Gain/(Loss) on the Disposition of Property	-	-	-	-	-	-	-	0.0%	-	-	-	0.0%
Total Non-Operating Revenue (Expense)	51,999	20,716	72,705	36,418	6,872	45,290	13,572	35.3%	13,843	201.4%	27,415	60.5%
Income Before Contributions and Transfers	507,014	22,650	529,664	464,616	(97,922)	366,694	42,398	9.1%	120,572	-123.1%	162,970	44.4%
CAPITAL CONTRIBUTIONS	143,377	487,243	630,620	-	166,373	166,373	143,377	-	320,870	192.9%	464,247	279.0%
TRANSFER TO MUNICIPALITY	(118,003)	(83,500)	(201,503)	(122,048)	(87,715)	(209,763)	4,045	3.3%	4,215	4.8%	8,260	3.9%
CHANGE IN NET POSITION	\$ 532,388	426,393	958,781	342,568	(19,263)	323,305	189,820	55.4%	445,658	2313.5%	635,476	196.6%

SHAKOPEE PUBLIC UTILITIES
ELECTRIC OPERATING REVENUE AND EXPENSE

	MTD Actual		MTD Budget		MTD Actual v. Budget	
	November 2018		November 2018		Better/(Worse)	
	\$		\$		\$	%
OPERATING REVENUES						
Sales of Electricity						
Residential	\$ 1,114,635		1,185,991		(71,356)	-6.0%
Commercial and Industrial	2,419,073		2,374,670		44,403	1.9%
Uncollectible accounts	-		-		-	-
Total Sales of Electricity	<u>3,533,709</u>		<u>3,560,662</u>		<u>(26,953)</u>	<u>-0.8%</u>
Forfeited Discounts	21,367		20,453		914	4.5%
Free service to the City of Shakopee	14,003		13,853		150	1.1%
Conservation program	52,693		54,042		(1,348)	-2.5%
Total Operating Revenues	<u>3,621,772</u>		<u>3,649,009</u>		<u>(27,237)</u>	<u>-0.7%</u>
OPERATING EXPENSES						
Operations and Maintenance						
Purchased power	2,551,477		2,458,005		(93,472)	-3.8%
Distribution operation expenses	27,416		37,222		9,806	26.3%
Distribution system maintenance	44,818		69,157		24,338	35.2%
Maintenance of general plant	14,772		21,340		6,569	30.8%
Total Operation and Maintenance	<u>2,638,483</u>		<u>2,585,724</u>		<u>(52,758)</u>	<u>-2.0%</u>
Customer Accounts						
Meter Reading	8,867		9,133		266	2.9%
Customer records and collection	35,276		50,754		15,478	30.5%
Energy conservation	35,189		59,003		23,814	40.4%
Total Customer Accounts	<u>79,332</u>		<u>118,890</u>		<u>39,558</u>	<u>33.3%</u>
Administrative and General						
Administrative and general salaries	46,181		51,183		5,003	9.8%
Office supplies and expense	15,770		15,839		69	0.4%
Outside services employed	18,436		26,316		7,880	29.9%
Insurance	11,324		12,164		841	6.9%
Employee Benefits	148,166		175,315		27,149	15.5%
Miscellaneous general	12,789		37,822		25,033	66.2%
Total Administrative and General	<u>252,665</u>		<u>318,640</u>		<u>65,975</u>	<u>20.7%</u>
Total Operation, Customer, & Admin Expenses	<u>2,970,480</u>		<u>3,023,254</u>		<u>52,774</u>	<u>1.7%</u>
Depreciation	196,268		199,558		3,290	1.6%
Amortization of plant acquisition	-		-		-	0.0%
Total Operating Expenses	<u>\$ 3,166,748</u>		<u>3,222,812</u>		<u>56,064</u>	<u>1.7%</u>
OPERATING INCOME	<u>\$ 455,024</u>		<u>426,198</u>		<u>28,826</u>	<u>6.8%</u>

**SHAKOPEE PUBLIC UTILITIES
WATER OPERATING REVENUE AND EXPENSE**

	MTD Actual		MTD Budget		MTD Actual v. Budget	
	November 2018		November 2018		Better/(Worse)	
					\$	%
OPERATING REVENUES						
Sales of Water	\$	304,710		283,547	21,163	7.5%
Forfeited Discounts		17,823		1,865	15,959	855.8%
Uncollectible accounts		1		-	1	-
Total Operating Revenues		<u>322,535</u>		<u>285,412</u>	<u>37,122</u>	<u>13.0%</u>
OPERATING EXPENSES						
Operations and Maintenance						
Pumping and distribution operation		30,820		42,942	12,122	28.2%
Pumping and distribution maintenance		15,124		28,572	13,448	47.1%
Power for pumping		23,274		23,949	675	2.8%
Maintenance of general plant		2,532		5,221	2,689	51.5%
Total Operation and Maintenance		<u>71,750</u>		<u>100,684</u>	<u>28,934</u>	<u>28.7%</u>
Customer Accounts						
Meter Reading		4,786		5,160	373	7.2%
Customer records and collection		11,412		13,203	1,791	13.6%
Energy conservation		-		-	-	-
Total Customer Accounts		<u>16,198</u>		<u>18,363</u>	<u>2,165</u>	<u>11.8%</u>
Administrative and General						
Administrative and general salaries		29,140		32,157	3,017	9.4%
Office supplies and expense		4,416		7,174	2,759	38.5%
Outside services employed		(1,260)		13,483	14,743	109.3%
Insurance		3,775		4,055	280	6.9%
Employee Benefits		57,062		63,870	6,808	10.7%
Miscellaneous general		10,264		21,508	11,244	52.3%
Total Administrative and General		<u>103,396</u>		<u>142,247</u>	<u>38,851</u>	<u>27.3%</u>
Total Operation, Customer, & Admin Expenses		<u>191,344</u>		<u>261,294</u>	<u>69,950</u>	<u>26.8%</u>
Depreciation		129,257		128,912	(344)	-0.3%
Amortization of plant acquisition		-		-	-	-
Total Operating Expenses		<u>320,600</u>		<u>390,206</u>	<u>69,606</u>	<u>17.8%</u>
OPERATING INCOME	\$	<u>1,934</u>		<u>(104,794)</u>	<u>106,728</u>	<u>101.8%</u>

SHAKOPEE PUBLIC UTILITIES
YEAR TO DATE FINANCIAL RESULTS
NOVEMBER 2018



SHAKOPEE PUBLIC UTILITIES
"Lighting the Way – Yesterday, Today and Beyond"

SHAKOPEE PUBLIC UTILITIES
COMBINED STATEMENT OF REVENUES, EXPENSES AND CHANGES IN FUND NET POSITION

	Year to Date Actual - November 2018			Year to Date Budget - November 2018			Electric		Water		Total Utility	
	Electric	Water	Total Utility	Electric	Water	Total Utility	YTD Actual v. Budget B/(W) \$	%	YTD Actual v. Budget B/(W) \$	%	YTD Actual v. Budget B/(W) \$	%
OPERATING REVENUES	\$ 46,640,803	5,300,569	51,941,372	45,081,242	5,132,431	50,213,672	1,559,562	3.5%	168,138	3.3%	1,727,700	3.4%
OPERATING EXPENSES												
Operation, Customer and Administrative	37,807,162	2,034,262	40,531,443	37,991,045	2,911,897	40,903,942	94,783	0.2%	277,615	9.5%	372,398	0.9%
Depreciation	2,158,950	1,421,822	3,580,772	2,195,135	1,418,037	3,613,171	36,185	1.6%	(3,785)	-0.3%	32,399	0.9%
Amortization of Plant Acquisition	-	-	-	-	-	-	-	0.0%	-	-	-	0.0%
Total Operating Expenses	40,056,111	4,056,104	44,112,215	40,187,080	4,329,933	44,517,013	130,968	0.3%	273,829	6.3%	404,798	0.9%
 Operating Income:	6,584,692	1,244,465	7,829,157	4,894,162	802,497	5,696,659	1,690,530	34.5%	441,968	55.1%	2,132,488	37.4%
 NON-OPERATING REVENUE (EXPENSE)												
Rental and Miscellaneous	224,686	179,687	404,373	173,617	164,251	337,868	51,070	29.4%	15,436	9.4%	66,506	19.7%
Interdepartmental Rent from Water	82,500	-	82,500	82,500	-	82,500	-	0.0%	-	-	-	0.0%
Investment Income	342,226	202,421	544,647	186,337	60,622	246,958	155,889	83.7%	141,800	233.9%	297,689	120.5%
Interest Expense	(62,370)	(891)	(63,261)	(47,219)	(315)	(47,535)	(15,150)	-32.1%	(575)	-182.4%	(15,726)	-33.1%
Amortization of Debt Issuance Costs and Loss on Refunding	(216,694)	-	(216,694)	(216,694)	-	(216,694)	-	0.0%	-	0.0%	-	0.0%
Gain/(Loss) on the Disposition of Property	59,999	6,260	66,259	-	-	-	59,999	0.0%	6,260	-	66,259	0.0%
Total Non-Operating Revenue (Expense)	430,347	387,477	817,825	178,540	224,557	403,097	251,807	141.0%	162,920	72.6%	414,728	102.9%
 Income Before Contributions and Transfers	7,015,039	1,631,943	8,646,982	5,072,702	1,027,054	6,099,756	1,942,337	38.3%	604,888	58.9%	2,547,225	41.8%
 CAPITAL CONTRIBUTIONS	511,513	3,457,308	3,968,819	-	1,830,107	1,830,107	511,513	-	1,627,199	88.9%	2,138,712	116.9%
MUNICIPAL CONTRIBUTION	(1,297,723)	(918,487)	(2,216,210)	(1,342,525)	(964,865)	(2,307,390)	44,802	3.3%	46,379	4.8%	91,181	4.0%
 CHANGE IN NET POSITION	\$ 6,228,829	4,170,762	10,399,591	3,730,177	1,892,295	5,622,473	2,498,652	67.0%	2,278,466	120.4%	4,777,118	85.0%

**SHAKOPEE PUBLIC UTILITIES
ELECTRIC OPERATING REVENUE AND EXPENSE**

	YTD Actual	YTD Budget	YTD Actual v. Budget	
	November 2018	November 2018	Better/(Worse)	
			\$	%
OPERATING REVENUES				
Sales of Electricity				
Residential	\$ 16,578,350	15,561,296	1,017,054	6.5%
Commercial and Industrial	28,988,923	28,485,196	503,727	1.8%
Uncollectible accounts	-	-	-	-
Total Sales of Electricity	45,567,273	44,046,492	1,520,781	3.5%
Forfeited Discounts	239,734	224,982	14,752	6.6%
Free service to the City of Shakopee	154,034	152,388	1,646	1.1%
Conservation program	679,762	657,379	22,383	3.4%
Total Operating Revenues	46,640,803	45,081,242	1,559,562	3.5%
OPERATING EXPENSES				
Operations and Maintenance				
Purchased power	32,838,548	31,661,211	(1,177,337)	-3.7%
Distribution operation expenses	384,682	409,446	24,764	6.0%
Distribution system maintenance	742,754	760,722	17,968	2.4%
Maintenance of general plant	228,503	234,744	6,241	2.7%
Total Operation and Maintenance	34,194,487	33,066,123	(1,128,363)	-3.4%
Customer Accounts				
Meter Reading	107,231	100,462	(6,769)	-6.7%
Customer records and collection	491,192	558,295	67,103	12.0%
Energy conservation	151,712	649,031	497,319	76.6%
Total Customer Accounts	750,135	1,307,787	557,652	42.6%
Administrative and General				
Administrative and general salaries	564,461	563,017	(1,445)	-0.3%
Office supplies and expense	132,441	174,231	41,789	24.0%
Outside services employed	186,004	289,474	103,470	35.7%
Insurance	118,065	133,809	15,744	11.8%
Employee Benefits	1,672,091	2,041,465	369,374	18.1%
Miscellaneous general	279,477	416,039	136,562	32.8%
Total Administrative and General	2,952,540	3,618,035	665,495	18.4%
Total Operation, Customer, & Admin Expenses	37,897,162	37,991,945	94,783	0.2%
Depreciation	2,158,950	2,195,135	36,185	1.6%
Amortization of plant acquisition	-	-	-	0.0%
Total Operating Expenses	\$ 40,056,111	40,187,080	130,968	0.3%
OPERATING INCOME	\$ 6,584,692	4,894,162	1,690,530	34.5%

SHAKOPEE PUBLIC UTILITIES
WATER OPERATING REVENUE AND EXPENSE

	YTD Actual	YTD Budget	YTD Actual v. Budget	
	November 2018	November 2018	Better/(Worse)	
			\$	%
OPERATING REVENUES				
Sales of Water	\$ 5,263,297	5,111,919	151,378	3.0%
Forfeited Discounts	37,271	20,512	16,758	81.7%
Uncollectible accounts	2	-	2	-
Total Operating Revenues	<u>5,300,569</u>	<u>5,132,431</u>	<u>168,138</u>	<u>3.3%</u>
OPERATING EXPENSES				
Operations and Maintenance				
Pumping and distribution operation	437,649	472,358	34,709	7.3%
Pumping and distribution maintenance	407,791	314,290	(93,501)	-29.7%
Power for pumping	266,044	263,439	(2,604)	-1.0%
Maintenance of general plant	34,183	57,435	23,252	40.5%
Total Operation and Maintenance	<u>1,145,666</u>	<u>1,107,522</u>	<u>(38,144)</u>	<u>-3.4%</u>
Customer Accounts				
Meter Reading	57,221	56,759	(462)	-0.8%
Customer records and collection	137,634	145,234	7,600	5.2%
Energy conservation	-	-	-	-
Total Customer Accounts	<u>194,854</u>	<u>201,992</u>	<u>7,138</u>	<u>3.5%</u>
Administrative and General				
Administrative and general salaries	367,315	353,722	(13,594)	-3.8%
Office supplies and expense	44,869	78,916	34,047	43.1%
Outside services employed	72,415	148,315	75,900	51.2%
Insurance	39,355	44,603	5,248	11.8%
Employee Benefits	596,250	740,240	143,989	19.5%
Miscellaneous general	173,557	236,586	63,029	26.6%
Total Administrative and General	<u>1,293,762</u>	<u>1,602,382</u>	<u>308,620</u>	<u>19.3%</u>
Total Operation, Customer, & Admin Expenses	<u>2,634,282</u>	<u>2,911,897</u>	<u>277,615</u>	<u>9.5%</u>
Depreciation	1,421,822	1,418,037	(3,785)	-0.3%
Amortization of plant acquisition	-	-	-	-
Total Operating Expenses	<u>\$ 4,056,104</u>	<u>4,329,933</u>	<u>273,829</u>	<u>6.3%</u>
OPERATING INCOME	<u>\$ 1,244,465</u>	<u>802,497</u>	<u>441,968</u>	<u>55.1%</u>