

AGENDA  
SHAKOPEE PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
September 20, 2021  
at 5:00 PM

To watch this meeting live click or copy the link: <https://tinyurl.com/SPU-YouTube-Live>

1. **Call to Order** at 5:00pm in the SPU Service Center, 255 Sarazin Street
  - a. **Roll Call**
  
2. **Communications**
  
3. **Consent Agenda**
  - C=> 3a) Approval of the September 7, 2021 Minutes (GD)
  - C=> 3b) Approval of September 20, 2021 Agenda (KM)
  - C=> 3c) September 9, 2021 Warrant List  
Account credit Request/Deposit Refunds (JM)
  - C=> 3d) September 20, 2021 Warrant List (JM)
  - C=> 3e) Monthly Water Dashboard (LS)
  - C=> 3f) July 31, 2021 Financial Report (JM)
  - C=> 3g) Deposit Resolution #2021-17 A Resolution Amending Res #1215 Adopting Utilities  
Deposits for the Shakopee Public Utilities (SW)
  
4. **Liaison Report** (JB)
  
5. **Public Comment Period.** The public comment period provides an opportunity for the public to address the Commission on items that are not on the agenda. Comments should **not** exceed five minutes. The SPU President may adjust that time limit based upon the number of persons seeking to comment. This comment period may not be used to make personal attacks, to air personality grievances, or for political endorsements or campaigns. The public comments are intended for informational purposes only; Commissioners will not enter into a dialogue with commenters, and questions from Commissioners will be for clarification only.
  
6. **General Manager Report**
  - 6a) General Manager Report – Verbal (GD)
  
7. **Reports: Water Items**
  - 7a) Water System Operations Report – Verbal (LS)
  - 7b) D.R. Horton/SPU Land Rights Swap (JA)
  
8. **Reports: Electric Items**
  - 8a) Electric System Operations Report – Verbal (BC)
  - 8b) MMPA EV Charger Project License Agreement (JA)
  
9. **Reports: Human Resources**
  - 9a) COVID Policies (GD)

10. **Reports: General**  
10a) Marketing/Customer Service Report – Verbal (SW)  
10b) Consideration of Auditor (JM)  
10c) Service Territory Discussions (GD)\*

11. **Items for Future Agendas**

12. **Tentative Dates for Upcoming Meetings**

- October 4, 2021
- October 18, 2021
- November 1, 2021
- November 15, 2021

13. **Adjournment**

\* A portion of this meeting may be closed under Minnesota Statutes, Section 13D.05, subd. 3(c)(3) to develop or consider offers or counteroffers for the purchase or sale of real or personal property.

MINUTES OF THE  
SHAKOPEE PUBLIC UTILITIES COMMISSION  
SEPTEMBER 7, 2021  
Regular Meeting

1. Call to Order. President Mocol called the September 7 2021 meeting of the Shakopee Public Utilities Commission to order at 5:03 P.M. President Mocol, Vice President Fox, Commissioner Brennan, Commissioner Krieg, and Commissioner Letourneau were present.
2. Approval of Consent Agenda. President Mocol asked that the agenda be modified to move item 10a before the General Manager Update and to add item 9a COVID discussion. Commissioner Brennan moved approval of the consent agenda, as modified. Vice President Fox seconded the motion. Ayes: Mocol, Fox, Brennan, Krieg and Letourneau. Nays: None. Motion carried. The approved items were: August 2, 2021 Minutes; September 7, 2021 Amended Agenda; August 5, 2021 Warrant List, Account Credit Request/Deposit Refunds; August 16, 2021 Warrant List; September 7, 2021 Warrant List, MMPA August Meeting Update; 2021 Rhythm of the Rails Marketing Report; Levee Drive Duct Bank Change Order No. 1; Hansen Avenue Change Order No. 2; Resolution #2021-16: Resolution Setting the Amount of the Trunk Water Charge, Approving of Its Collection and Authorizing Water Service to Certain Property in Windermere South 5<sup>th</sup> Addition.
4. Liaison Report. Commissioner Brennan noted that she had nothing to share at this time.
5. Public Comment Period. No public comments were offered.
6. Classification and Compensation Study. Greg Drent, General Manager, summarized past Commission approvals, including manager salaries, cost-of-living adjustments, and SPU organizational structure. Debra Englund of HRExpertiseBP presented the underlying philosophy and process undertaken, including ranking of positions within the organization according to eight criteria, defining the market for base pay, and defining performance-measurement tools. She discussed best-practice parameters for salary range of 80% - 120%. Ms. Englund presented the 14 grade levels for SPU employees, the market data for 2021, and the 80% - 120% salary ranges. Vice-President Fox moved approval of the Classification and Compensation Study as presented. Commissioner Letourneau seconded the motion. Ayes: Mocol, Fox, Brennan, Krieg, and Letourneau. Nays: None. Motion carried. Commissioner Brennan requested background information beyond a PowerPoint presentation.
7. Copper vs Plastic Water Services. Lon Schemel, Water Superintendent, explained that SPU currently requires K copper tubing both from the water main to the curb stop (which SPU owns), and from the curb stop into the building (owned by the customer). D.R. Horton, developer and builder for the Windermere project, requested plastic tubing from the curb stop into the building. Michael Suel, Land Development Manager, D.R. Horton, explained that the concern

was theft of copper. Commissioner Brennan moved that SPU implement plastic water service lines from the curb stop to the building in the 2022 policy and include specifications and tracer wire requirements. Vice-President Fox seconded the motion. Ayes: Mocol, Fox, Brennan, Krieg, and Letourneau. Nays: None. Motion carried.

8. General Manager Report. Mr. Drent reported that SPU and City representatives met again to discuss PILOT, that staff is working on budget and capital improvement plan items, and that SPU hired a Project Engineer. Mr. Drent noted that Grand Rapids Public Utilities sent a thank-you for the mutual aid, which SPU will hang in its office. Mr. Drent provided an update on the reconstruction project of the SPU Service Center.

9. Water Report. Mr. Schemel reported that water pumpage levels have returned to seasonal norms. He noted that the department has resumed flushing. He provided an update on hydrant painting, with 50 hydrants completed and 50 remaining. Mr. Schemel noted that the Minnesota Department of Health will start PFAS sampling tomorrow in Shakopee and that WCCO plans to report on this statewide testing process. He reported that interior painting has started for Tank #8 and that the completion of Tank #8 has been pushed back to November of 2021. Commissioner Brennan departed the meeting to attend a City Council meeting.

Water Level Comparison. Mr. Schemel presented a memo on the static water levels in wells when not being pumped. Mr. Schemel proposed that in January or February of 2022, he will graph the entire year. He noted that he contacted the US Geological Survey to determine the costs to complete a water-aging test and will bring the information back to the Commission.

10. Electric Report. Mr. Carlson, Electric Superintendent, described 15 outages since the last Commission meeting. He provided an update on pending projects, including completing Hentges Way, duct bank work on Levee Drive, and other projects.

11. Electric Vehicle Charging Stations. Mr. Carlson provided an update on six EV charging stations in partnership with the City of Shakopee. He noted that Enel X has provided a \$57,429.80 quote for the charging stations and 5-year data and maintenance plan, which was lower than the state bid contract cost. Mr. Carlson explained that the City of Shakopee will reimburse SPU for the cost of three of the charging stations. Commission Letourneau moved to approve the quote from Enel X in the amount of \$57,429.80, as well as additional cost incurred by local licensed electricians for final commissioning of the six charging stations. Commissioner Krieg seconded the motion. Ayes: Mocol, Fox, Krieg, and Letourneau. Nays: None. Motion carried.

12. Human Resources. The Commission discussed SPU COVID policies in light of the Delta variant, including in-person Commission meetings, masks, remote work options, testing, exposure/quarantine, and vaccination policies. The Commission will further consider this topic on a future agenda.

13. Customer Service/Marketing Update. Sharon Walsh, Marketing/Customer Relations Director, noted updates to the collection letters and billing statements, which are targeted for the September bills. She explained that no disconnects occurred in August due to extreme heat. Over 400 customers were later scheduled for the regular disconnect process, and SPU processed approximately one-half of them. Ms. Walsh noted that late penalties are being applied. She stated that the legislature has expanded the Cold Weather Rule from October 1<sup>st</sup> to April 30<sup>th</sup> (rather than October 15<sup>th</sup> - April 15<sup>th</sup> in the past).

14. Water and Electric Projects. Joseph Adams, Planning and Engineering Director, presented the current list of SPU water and electric projects, with maps depicting where the projects are located. He noted that this information was last presented in January 2021.

15. Adjourn. Motion by Vice President Fox, seconded by Commissioner Krieg, to adjourn to the September 20, 2021 meeting. Ayes: Mocol, Fox, Krieg, and Letourneau. Nays: None. Motion carried.

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Greg Drent, Commission Secretary

# Proposed As Consent Item

AGENDA  
SHAKOPEE PUBLIC UTILITIES COMMISSION  
REGULAR MEETING  
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at 5:00 PM

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## SHAKOPEE PUBLIC UTILITIES COMMISSION

Warrant List  
 Account Credit Request/Deposit Refunds  
 September 9, 2021

By direction of the Shakopee Public Utilities Commission, the Secretary does hereby authorize the following warrants drawn upon the Treasury of Shakopee Public Utilities

William Michael Aldam	\$70.32
Jamaa A Ali	\$19.04
Kristine Anderson	\$85.71
Rebekah Aronson	\$14.55
Abdel Hameed Awwad	\$15.05
Scott Barnard	\$41.01
Matheus Baseggio	\$49.59
Kyle Bastin	\$137.51
Brent & Norma Bishop	\$4.16
Michelle Blair	\$18.85
Nicole Blume	\$50.00
Emilie Brennan	\$28.00
Bradley Buchanan	\$28.00
Gerald Carlson	\$51.23
Sisavanh Chindavong	\$24.58
Theron Counts	\$34.53
D R Horton Inc	\$42.46
David A Olson Estate	\$30.36
Wanda DeLoach	\$28.58
Jon & Maria Dioszegi	\$54.96
Distinctive Design Build LLC	\$66.26
Kimny & Sreymom Dok	\$43.18
Michael C Forrey	\$5.88
Ted Fristed	\$96.40
Ross & Megan Fuchs	\$8.99
Vivek Goel	\$195.41
Eric Grussing	\$1.59
Nujoom Ahmed Hassan	\$20.34
Mary Heitzman	\$89.81
Robert Hutcheson	\$62.92
ISD #720-High School	\$136.44
J & S Ryan Properties	\$4,313.61
Scott Johnson	\$2.12
Jenna Jorgensen	\$2.55
Nicky Keovongkhot	\$51.89
Sumeer Khosa	\$35.72
Theresa Klement	\$35.84
Reily Knutson and Lena Barry	\$47.78
Katherine E Kroeger	\$47.90
Kumon Math & Reading Center of Shakopee	\$205.94
Joshua C Ky	\$161.66
Shelby Ann Lalim	\$47.49
Nicole Leemhuis and Jeremy Bayless	\$19.97
Brent M Lofgren	\$143.63
Erin M Mayer & Evan W Lundeen	\$7.80



Daylen McCann	\$8.75
Brady Mergenthal	\$21.53
Bernard J Mihevc	\$36.45
Monument White Pines LLC	\$10.05
Hang Nguyen	\$67.41
Cynthia Nienaber	\$7.95
Jessica Onchanu	\$52.65
Pulte Homes of MN	\$15.95
Nick Rahman	\$3.29
Leslie D Regehr	\$4.55
Geroge Reisdorff	\$28.93
Andrew Robertson	\$57.47
Pamela Rodriguez	\$23.78
Jennifer Rynda	\$262.37
Tricia Scheffler	\$64.93
Milan Schroff	\$56.25
Brian Simonson	\$71.81
Carol Spenillo	\$61.10
Philip Staff	\$76.99
Sustainable 9 Design & Build	\$11.44
Matt Theisen	\$82.33
Sarah & Justin Thomas	\$42.62
Jose Valdez & Keily Izaguirre	\$22.27
Erica J Walters	\$58.66
Waverly Place Apartments LLC	\$2.18
Charlene Williams	\$24.13

TOTAL	<u><u>\$7,855.45</u></u>
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Presented for approval by: Interim Director of Finance & Administration

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Approved by General Manager

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Approved by Commission President

## SHAKOPEE PUBLIC UTILITIES COMMISSION

## WARRANT LISTING

September 20, 2021

By direction of the Shakopee Public Utilities Commission, the Secretary does hereby authorize the following warrants drawn upon the Treasury of Shakopee Public Utilities Commission:

Abdo, Eick & Meyers, LLP	\$19,006.80
American Messaging Services, LLC	\$1,547.39
AMARIL UNIFORM CO.	\$1,156.52
ARROW ACE HARDWARE	\$20.93
BDH2-MARSHALL, LLC	\$121.95
BERNDTSON, ROBERT	\$187.60
BORDER STATES ELECTRIC SUPPLY INC	\$135,124.99
BRAUN INTERTEC CORP.	\$3,517.00
CDW LLC	\$5,101.41
CITY OF SAVAGE	\$4.07
CITY OF SHAKOPEE	\$531,763.78
CITY OF SHAKOPEE	\$6,021.00
CM CONSTRUCTION COMPANY	\$31,772.75
D G WELDING & MFG., INC.	\$80,750.00
DEEGAN, JOHN & LISA	\$200.00
DEL'S CONSTRUCTION COMPANY INC.	\$99,660.00
DELTA DENTAL PLAN OF MN	\$4,809.21
DINH, PHONG	\$500.00
ENGLERTH, LINDA & MICHAEL 9007 HORIZ	\$175.00
FLYTE HCM LLC	\$10.00
FRONTIER ENERGY, INC.	\$5,064.13
FURTHER	\$942.00
GOLDADE, TANNER	\$500.00
GOPHER STATE ONE-CALL	\$1,036.80
GRAINGER	\$168.94
GRUNDHAUSER, REBECCA & MICHAEL	\$275.00
HARRIS ST PAUL, INC	\$1,537.40
HAWKINS INC	\$6,003.96
HD SUPPLY FACILITIES MAINTENANCE LTD	\$1,254.58
HEALTHPARTNERS	\$69,693.61
HORNER, CODY	\$150.00
HUANG, JOHN C 4979 BEACH ST	\$150.00
IMPACT MAILING OF MINNESOTA, INC.	\$13,360.29
INNOVATIVE OFFICE SOLUTIONS LLC	\$1,219.28
INTERSTATE ALL BATTERY CTR	\$169.12
IRBY - STUART C IRBY CO	\$64,787.93
IRBY TOOL & SAFETY	\$541.43
KRUEGER EXCAVATING INC.	\$33,020.81
KURVERS, MIKE	\$200.00
LE, DAI	\$175.00
LOCATORS & SUPPLIES INC	\$789.73
MAMIDALA, MALYADRI	\$5.00
MCGRANN SHEA CARNIVAL	\$5,431.25
MIDWEST SAFETY COUNSELORS, INC.	\$248.79
MIKE'S AUTO REPAIR INC	\$83.93
MMPA c/o Avant Energy	\$4,239,252.65
MN DEPT OF REVENUE ACH PAYMENTS	\$347,684.00
MRA-THE MANAGEMENT ASSOCIATION	\$36.00
NAGEL COMPANIES LLC	\$27,520.24
NEVILLE, GERRY	\$85.68
NICKOLAY, CINDY	\$217.84
NORTHERN STATES POWER CO.	\$4,907.21
PETSMART #2412	\$1,865.00
POMP'S TIRE SERVICE INC	\$930.42
PUBLIC WORKS SALES HOLDINGS LLC	\$519.00
RHL ASSOCIATES	\$575.04
RICE LAKE CONSTRUCTION	\$5,947.50
RUBENE, ANNA	\$175.00
RW Beck Group, Inc, Leidos Eng. LLC	\$23,247.00
SAMBATEK	\$4,552.50
SCEPUREK, SHANE	\$500.00
SDDI SIGN SYSTEMS	\$126.70
SHAKOPEE CHAMBER OF COMMERCE	\$2,000.00
SHELLEN, CRAIG 14046 BLUEBIRD	\$150.00
SOUTHWEST NEWS MEDIA DBA DIV. OF RED	\$287.43
STOCKER, JORDAN	\$150.00
Tepley, Jon	\$350.00
TECHLINE, INC	\$506.02
TRIPLETT, GREG	\$128.80
TWIN CITY GARAGE DOOR CO.	\$4,845.00

SHAKOPEE PUBLIC UTILITIES COMMISSION

WARRANT LISTING

September 20, 2021

By direction of the Shakopee Public Utilities Commission, the Secretary does hereby authorize the following warrants drawn upon the Treasury of Shakopee Public Utilities

Commission:

VERIZON CONNECT NWF INC.	\$32.38
VOGEL, JUSTYNE & MICHAEL	\$175.00
VON BANK, JAMIE	\$65.10
Whited, Sharlene	\$150.00
WALSH, SHARON	\$159.51
WATER CONSERVATION SERVICE INC	\$312.40
WEIDENHAFT, JACOB	\$500.00
WESCO DISTRIBUTION INC	\$3,307.29
YOUNG, DAVID	\$200.00
ZIEGLER INC	\$6,191.58

\$5,805,911.67

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Presented for approval by: Interim Director of Finance & Administration

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Approved by General Manager

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Approved by Commission President

## SHAKOPEE PUBLIC UTILITIES COMMISSION

## WARRANT LISTING

September 20, 2021

direction of the Shakopee Public Utilities Commission, the Secretary does  
ize the following warrants drawn upon the Treasury of Shakopee Public L  
Commission:

Abdo, Eick & Meyers, LLP	\$19,006.80	Aug. FS Acct. Consulting
American Messaging Services, LLC	\$1,547.39	Smartswitch 9/1-9/30/21
AMARIL UNIFORM CO.	\$1,156.52	FR jeans ,hi-vis and winter clothing
ARROW ACE HARDWARE	\$20.93	Elec. Dept., bolts & builders
BDH2-MARSHALL, LLC	\$121.95	Lodging 1 night for Brad C
BERNDTSON, ROBERT	\$187.60	Miles reimb.
BORDER STATES ELECTRIC SUPPLY INC	\$135,124.99	Cable
BRAUN INTERTEC CORP.	\$3,517.00	Prof. service thru 8/27/21 Soil/ Observe WO#2470
CDW LLC	\$5,101.41	Lost check 58486 reissued this one, Conference Room Camera
CITY OF SAVAGE	\$4.07	Mccoll Dr. Water usage (Preserve Trl addition)
CITY OF SHAKOPEE	\$531,763.78	Aug. SW(\$416,901.27) SD(\$114,862.51)
CITY OF SHAKOPEE	\$6,021.00	Aug. R.O.W. permits-\$880.- WO#2473- \$2235.50 and WO#2493-\$2905.50
CM CONSTRUCTION COMPANY	\$31,772.75	SPU bldg Construction WO#2470
D G WELDING & MFG., INC.	\$80,750.00	Metal fab & structural steel WO#2470
DEEGAN, JOHN & LISA	\$200.00	2021 Res. Energy Star Appliance
DEL'S CONSTRUCTION COMPANY INC.	\$99,660.00	SPU bldg Construction WO#2470
DELTA DENTAL PLAN OF MN	\$4,809.21	August Delta Dental Premium
DINH, PHONG	\$500.00	2021 Res. Cooling & Heating Rebate
ENGLERTH, LINDA & MICHAEL 9007 HORIZ	\$175.00	2021 Res. Energy Star Appliance
FLYTE HCM LLC	\$10.00	Aug. COBRA Plan Change Notice
FRONTIER ENERGY, INC.	\$5,064.13	Sept. P3 Subscription
FURTHER	\$942.00	July Admin Fees, Aug. Admin Fees and Flex dental reimb.
GOLDADE, TANNER	\$500.00	2021 Res. Cooling & Heating Rebate
GOPHER STATE ONE-CALL	\$1,036.80	Aug. locates
GRAINGER	\$168.94	Safety Signs
GRUNDHAUSER, REBECCA & MICHAEL	\$275.00	2021 Res. Star appliance
HARRIS ST PAUL, INC	\$1,537.40	2- XIO DASH 4DO MODULE-Water dept.
HAWKINS INC	\$6,003.96	Fluoride pumps & Chlorine
HD SUPPLY FACILITIES MAINTENANCE LTD	\$1,254.58	Telescopic valve Key & Solinst Water level meter
HEALTHPARTNERS	\$69,693.61	Aug. premiums for HealthPartners
HORNER, CODY	\$150.00	2021 Res. Energy Star Appliance
HUANG, JOHN C 4979 BEACH ST	\$150.00	2021 Res. Energy Star Appliance
IMPACT MAILING OF MINNESOTA, INC.	\$13,360.29	Aug. statements
INNOVATIVE OFFICE SOLUTIONS LLC	\$1,219.28	Office supplies
INTERSTATE ALL BATTERY CTR	\$169.12	HD Battery for 622
IRBY - STUART C IRBY CO	\$64,787.93	1000KVA pad Mount transformer
IRBY TOOL & SAFETY	\$541.43	SALI OR124
KRUEGER EXCAVATING INC.	\$33,020.81	SPU bldg Construction WO#2470
KURVERS, MIKE	\$200.00	2021 Res. Star appliance
LE, DAI	\$175.00	2021 Res. Energy Star Appliance
LOCATORS & SUPPLIES INC	\$789.73	15 cases of Red AER-201 Marking paint
MAMIDALA, MALYADRI	\$5.00	2021 Energy Star Lighting
MCGRANN SHEA CARNIVAL	\$5,431.25	\$2866.25-Municipal & Reg. matters thru 8/31/21 WO#2545-\$2565.00 Land exchange agreement
MIDWEST SAFETY COUNSELORS, INC.	\$248.79	Saline Eyewash Solution-Electric Dept
MIKE'S AUTO REPAIR INC	\$83.93	Oil Change
MMPA c/o Avant Energy	\$4,239,252.65	Aug. power bill
MN DEPT OF REVENUE ACH PAYMENTS	\$347,684.00	Aug. Sales & Use Tax
MRA-THE MANAGEMENT ASSOCIATION	\$36.00	Background check on M.D.
NAGEL COMPANIES LLC	\$27,520.24	Old Kmart locate, backfill, WO#2530
NEVILLE, GERRY	\$85.68	81 Miles reimb.
NICKOLAY, CINDY	\$217.84	208 Miles reimb.
NORTHERN STATES POWER CO.	\$4,907.21	Aug. power bill
PETSMART #2412	\$1,865.00	2021 led LIGHTING @ 8140 OLD CARRIAGE CT
POMP'S TIRE SERVICE INC	\$930.42	put tube in tractor tire #638/rear tires
PUBLIC WORKS SALES HOLDINGS LLC	\$519.00	Combination Air Release
RHL ASSOCIATES	\$575.04	Lodging 2 nights Mike E
RICE LAKE CONSTRUCTION	\$5,947.50	Windermere Booster Station Pym #10 WO#2041
RUBENE, ANNA	\$175.00	2021 Res. Energy Star Appliance
RW Beck Group, Inc, Leidos Eng. LLC	\$23,247.00	SPU West Sub. Design WO#2483, July and Aug. 2021 Summer Peak Op. Study

SHAKOPEE PUBLIC UTILITIES COMMISSION

WARRANT LISTING

September 20, 2021

In direction of the Shakopee Public Utilities Commission, the Secretary does  
authorize the following warrants drawn upon the Treasury of Shakopee Public Utilities  
Commission:

SAMBATEK	\$4,552.50 Elevated Water Tank 8 WO#2259 for \$1172.50 and Well #23 WO#2525 for \$3380.00
SCEPUREK, SHANE	\$500.00 2021 Res. Cooling & Heating Rebate
SDDI SIGN SYSTEMS	\$126.70 Wooden name holders for desks
SHAKOPEE CHAMBER OF COMMERCE	\$2,000.00 Annual Membership(Renewal) Executive Bun
SHELLEN, CRAIG 14046 BLUEBIRD	\$150.00 2021 Res. Energy Star Appliance
SOUTHWEST NEWS MEDIA DBA DIV. OF RED	\$287.43 Aug. legals
STOCKER, JORDAN	\$150.00 Safety Boot reimb.
Teply, Jon	\$350.00 2021 Res. Cooling & Heating Rebate
TECHLINE, INC	\$506.02 Parallel Groove Clamp
TRIPLETT, GREG	\$128.80 Miles reimb.
TWIN CITY GARAGE DOOR CO.	\$4,845.00 Commercial Garage install WO#2470
VERIZON CONNECT NWF INC.	\$32.38 Aug. Service
VOGEL, JUSTYNE & MICHAEL	\$175.00 2021 Res. Star appliance
VON BANK, JAMIE	\$65.10 Concrete for Levee Dr. - Reimb.
Whited, Sharlene	\$150.00 2021 Res. Energy Star Appliance
WALSH, SHARON	\$159.51 2021 Res. Energy Star Lighting
WATER CONSERVATION SERVICE INC	\$312.40 Leak locate 233 Pottok Lane
WEIDENHAFT, JACOB	\$500.00 2021 Res. Cooling & Heating Rebate
WESCO DISTRIBUTION INC	\$3,307.29 Termination, insulator guy, anchor helix, anchor rod
YOUNG, DAVID	\$200.00 2021 Res. Cooling & Heating Rebate
ZIEGLER INC	\$6,191.58 new tracks on Cat/Skidsteer
	\$5,805,911.67

Presented for approval by: Interim Director of Finance & Administration

Approved by General Manager

Approved by Commission President

# Monthly Water Dashboard

As of: August 2021

Shakopee Public Utilities Commission

ALL VALUES IN MILLIONS OF GALLONS

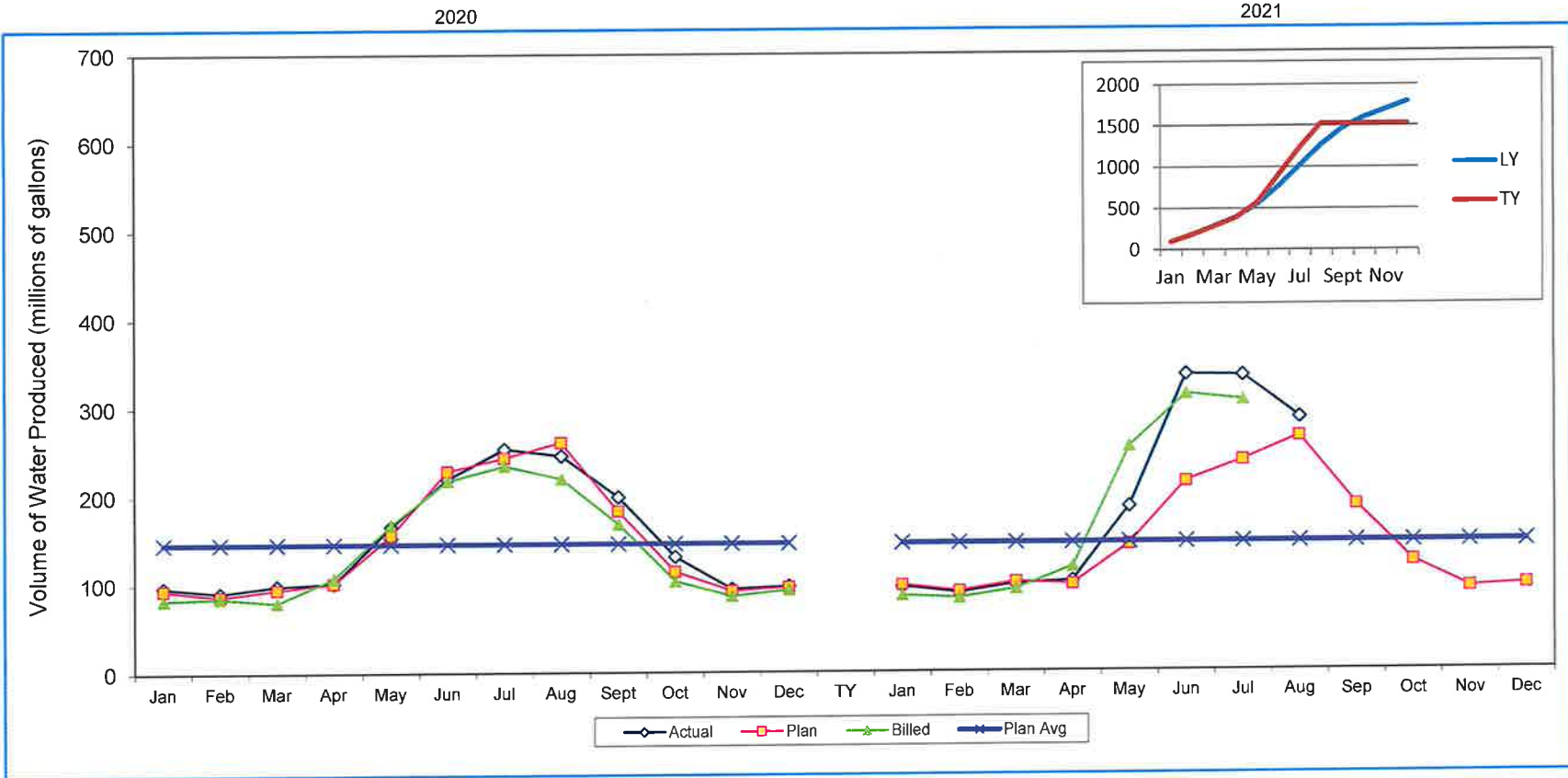
**Element/Measure**

**Water Pumped/Metered**

Averages

Last 6 months actuals	99	102	186	335	334	286
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2018	153
2019	139
2020	150



LY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	TY	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Actual	97	91	99	102	166	220	254	246	199	131	94	97		96	89	99	102	186	335	334	286				
Plan	94	87	95	102	156	229	244	261	183	114	92	96		98	91	101	98	143	214	238	265	187	123	93	96
YTD % *														98%	98%	98%	99%	108%	122%	126%	122%				
Billed	83	85	80	108	168	218	235	220	168	103	86	93		86	83	93	118	254	313	306					

\* Actual gallons pumped vs. Plan



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**DATE:** September 15, 2021  
**TO:** Greg Drent, General Manager *GD*  
**FROM:** Jean McGann, Consulting Finance Director  
**SUBJECT:** July 31, 2021 Financial Report

---

**Background**

We have compiled the accompanying combined statement of revenue and expenses and net assets for the electric and water funds for Shakopee Public Utilities as of July 31, 2021. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or provide any assurance about whether the financial statements are in accordance with accounting principles generally accepted in the United States of America.

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the financial statements.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist management in presenting financial information in the form of financial statements without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the financial statements.

Management has elected to omit substantially all of the disclosures and the statement of cash flows required by accounting principles generally accepted in the United States of America. If the omitted disclosures and the statement of cash flows were included in the financial statements, they might influence the user's conclusions about the Company's financial position, results of operations, and cash flows. Accordingly, the financial statements are not designed for those who are not informed about such matters.



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### **Current Status**

For the July 31, 2021 financial report, we have added a component of analytical review. For the Water and Electric Operating Revenue and Expense budget to actual and the Water and Electric Revenue and Expense report ending July 31, 2021 you will see comments at the bottom of each page. In addition to the analytical review, there are several important points to note.

- The budget is projected on an annual basis rather than a monthly basis so the information in the financial report equates to 58.33 % of the annual budget.
- Interest rates continue be extraordinarily low. Now that additional liquid funds are invested, we anticipate these earnings to increase over time.

Included in this report are the following statements:

- Combined Statement of Revenues, Expenses and Changes in Fund Net Position
- Electric Operating Revenue and Expense – Budget to Actual (with analytics)
- Water Operating Revenue and Expense– Budget to Actual (with analytics)
- Combined Statement of Revenue and expense and Net Assets
- Electric Operating Revenue and Expense Comparing June 2021 to 2020 Actual numbers (with analytics)
- Water Operating Revenue and Expense Comparing June 2021 to 2020 Actual numbers (with analytics)

### **Request**

The Commission is requested to accept the July 31, 2021 Financial Report.



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

	Year to Date Actual - July 2021			Year to Date Budget - July 2021			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) \$ %			
<b>OPERATING REVENUES</b>	\$ 27,079,375	3,512,504	30,591,879	26,700,177	3,151,348	29,851,525	379,198	1.4%	361,157	11.5%	740,355	2.5%
<b>OPERATING EXPENSES</b>						-						
Operation, Customer and Administrative	24,908,646	1,927,530	26,836,176	23,847,098	2,480,288	26,327,386	(1,061,548)	-4.5%	552,758	22.3%	(508,790)	-1.9%
Depreciation	1,358,074	923,345	2,281,418	1,358,074	923,345	2,281,418	-	0.0%	(0)	0.0%	(0)	0.0%
Amortization of Plant Acquisition	-	-	-	-	-	-	-	0.0%	-	-	-	0.0%
Total Operating Expenses	26,266,719	2,850,875	29,117,594	25,205,171	3,403,633	28,608,804	(1,061,548)	-4.2%	552,758	16.2%	(508,790)	-1.8%
Operating Income	812,656	661,629	1,474,285	1,495,006	(252,285)	1,242,720	(682,350)	-45.6%	913,914	362.3%	231,564	18.6%
<b>NON-OPERATING REVENUE (EXPENSE)</b>												
Rental and Miscellaneous	116,365	165,578	281,943	213,020	104,825	317,845	(96,655)	-45.4%	60,753	58.0%	(35,902)	-11.3%
Interdepartment Rent from Water	52,500	-	52,500	52,500	-	52,500	-	0.0%	-	-	-	0.0%
Investment Income	(5,305)	12,805	7,500	392,809	162,418	555,227	(398,114)	-101.4%	(149,613)	-92.1%	(547,727)	-98.6%
Interest Expense	(3,128)	(142)	(3,270)	(37,892)	(1,279)	(39,170)	34,764	91.7%	1,136	88.9%	35,900	91.7%
Gain/(Loss) on the Disposition of Property	33,550	-	33,550	-	-	-	33,550	0.0%	-	-	33,550	-
Total Non-Operating Revenue (Expense)	193,982	178,241	372,223	620,437	265,964	886,402	(426,456)	-68.7%	(87,723)	-33.0%	(514,179)	-58.0%
Income Before Contributions and Transfers	1,006,637	839,870	1,846,508	2,115,443	13,679	2,129,122	(1,108,806)	-52.4%	826,191	6039.8%	(282,615)	-13.3%
<b>CAPITAL CONTRIBUTIONS</b>	20,587	1,717,729	1,738,316	-	1,347,204	1,347,204	20,587	-	370,525	27.5%	391,112	29.0%
<b>MUNICIPAL CONTRIBUTION</b>	(1,250,097)	(115,806)	(1,365,903)	(1,192,724)	(119,334)	(1,312,057)	(57,373)	-4.8%	3,528	3.0%	(53,846)	-4.1%
<b>CHANGE IN NET POSITION</b>	\$ (222,873)	2,441,794	2,218,921	922,720	1,241,550	2,164,269	(1,145,592)	-124.2%	1,200,244	96.7%	54,652	2.5%

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

	YTD Actual	YTD Budget	YTD Actual v. Budget	
	Jul-21	Jul-21	Increase (decrease)	
			\$	%
<b>OPERATING REVENUES</b>				
Sales of Electricity				
Residential	\$ 10,513,246	10,399,331	113,914	101.1 %
Commercial and Industrial	16,103,830	15,753,661	350,169	102.2
Uncollectible accounts	-	-	-	
Total Sales of Electricity	<u>26,617,075</u>	<u>26,152,992</u>	<u>464,083</u>	<u>101.8</u>
Forfeited Discounts	-	53,673	(53,673)	-
Free service to the City of Shakopee	65,472	70,660	(5,189)	92.7
Conservation program	396,827	422,851	(26,024)	93.8
Total Operating Revenues	<u>27,079,375</u>	<u>26,700,177</u>	<u>379,198</u>	<u>101.4</u>
<b>OPERATING EXPENSES</b>				
Operations and Maintenance				
Purchased power	21,145,414	19,100,145	2,045,270	110.7
Distribution operation expenses	228,106	340,215	(112,109)	67.0 (1)
Distribution system maintenance	528,154	523,443	4,711	100.9
Maintenance of general plant	156,630	218,692	(62,062)	71.6 (2)
Total Operation and Maintenance	<u>22,058,303</u>	<u>20,182,494</u>	<u>1,875,809</u>	<u>109.3</u>
Customer Accounts				
Meter Reading	80,274	114,949	(34,675)	69.8 (3)
Customer records and collection	364,386	514,442	(150,057)	70.8 (4)
Energy conservation	160,648	434,472	(273,824)	37.0 (5)
Total Customer Accounts	<u>605,307</u>	<u>1,063,864</u>	<u>458,556</u>	<u>56.9</u>
Administrative and General				
Administrative and general salaries	302,701	573,424	(270,723)	52.8 (6)
Office supplies and expense	117,579	138,880	(21,301)	84.7
Outside services employed	401,594	289,262	112,331	138.8 (7)
Insurance	102,463	102,372	92	100.1
Employee Benefits	1,128,256	1,202,095	(73,840)	93.9
Miscellaneous general	192,442	294,707	(102,265)	65.3 (8)
Total Administrative and General	<u>2,245,035</u>	<u>2,600,740</u>	<u>(355,706)</u>	<u>86.3</u>
Total Operation, Customer, & Admin Expenses	<u>24,908,646</u>	<u>23,847,098</u>	<u>1,061,548</u>	<u>104.5</u>
Depreciation	1,358,074	1,358,074	-	-
Total Operating Expenses	<u>\$ 26,266,719</u>	<u>25,205,171</u>	<u>1,061,548</u>	<u>104.2</u>
Operating Income	<u>\$ 812,656</u>	<u>1,495,006</u>	<u>(682,350)</u>	<u>54.4</u>

**Item Explanation of Items Percentage Received/Expended Less than 80% or Greater than 120% and \$ Variance Greater than \$15,000.**

- (1) Variance due to less overhead line, underground line, and metering expenses than projected through July.
- (2) Variance due to less maintenance costs of general plant, distribution plant, and the building operations center than projected through July.
- (3) Variance due to less meter reading expenses than projected through July.
- (4) Variance due to less collection expenses than projected through July.
- (5) Variance due to less energy conservation program expenses than projected through July.
- (6) Variance due to less employee compensation than projected through July due to open positions.
- (7) Variance due to AEMFS and HR consulting expenses not budgeted for in current year.
- (8) Variance due to less regulatory commmission expenses, marketing costs, and other miscellaneous expenses than projected through July.

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

	YTD Actual July-21	YTD Budget July-21	YTD Actual v. Budget Increase (decrease)	
			\$	%
<b>OPERATING REVENUES</b>				
Sales of Water	\$ 3,512,504	3,143,001	369,504	111.76
Forfeited Discounts	-	8,347	(8,347)	-
Total Operating Revenues	<u>3,512,504</u>	<u>3,151,348</u>	<u>361,157</u>	<u>111.46</u>
<b>OPERATING EXPENSES</b>				
Operations and Maintenance				
Pumping and distribution operation	354,770	311,040	43,730	114.06
Pumping and distribution maintenance	241,608	361,531	(119,924)	66.83 (1)
Power for pumping	176,953	178,757	(1,804)	98.99
Maintenance of general plant	25,656	39,660	(14,003)	64.69
Total Operation and Maintenance	<u>798,987</u>	<u>890,987</u>	<u>(92,000)</u>	<u>89.67</u>
Customer Accounts				
Meter Reading	41,986	71,255	(29,269)	58.92 (2)
Customer records and collection	118,663	154,297	(35,633)	76.91 (3)
Energy conservation	2,396	5,833	(3,438)	41.07
Total Customer Accounts	<u>163,045</u>	<u>231,386</u>	<u>(68,340)</u>	<u>70.46</u>
Administrative and General				
Administrative and general salaries	228,520	389,003	(160,483)	58.74 (4)
Office supplies and expense	35,355	56,452	(21,097)	62.63 (5)
Outside services employed	152,742	155,478	(2,736)	98.24
Insurance	32,529	32,499	31	100.09
Employee Benefits	404,286	551,777	(147,492)	73.27 (6)
Miscellaneous general	112,067	172,706	(60,639)	64.89 (7)
Total Administrative and General	<u>965,498</u>	<u>1,357,915</u>	<u>(392,417)</u>	<u>71.10</u>
Total Operation, Customer, & Admin Expenses	<u>1,927,530</u>	<u>2,480,288</u>	<u>(552,758)</u>	<u>77.71</u>
Depreciation	923,345	923,345	-	100.00
Amortization of plant acquisition	-	-	-	-
Total Operating Expenses	<u>\$ 2,850,875</u>	<u>3,403,633</u>	<u>(552,758)</u>	<u>83.76</u>
Operating Income	<u>\$ 661,629</u>	<u>(252,285)</u>	<u>913,914</u>	<u>(262.25)</u>

**Item Explanation of Items Percentage Received/Expended Less than 80% or Greater than 120% and \$ Variance Greater than \$15,000.**

- (1) Variance due to less maintenance expenses for pumping equipment, valves, meters, and hydrants than budgeted for through July.
- (2) Variance due to less meter reading expenses than budgeted for through July.
- (3) Variance due to less collection fees and expenses than budgeted for through July.
- (4) Variance due to less employee compensation paid out than budgeted for through July due to open positions.
- (5) Variance due to less office supplies purchased than budgeted for through July.
- (6) Variance due to less employee benefits than budgeted for through July.
- (7) Variance due to less regulatory commmission expenses, marketing costs, and other miscellaneous expenses than budgeted for through July.

**SHAKOPEE PUBLIC UTILITIES**  
**COMBINED STATEMENT OF REVENUE & EXPENSE AND NET ASSETS**  
**COMPARATIVE FINANCIAL RESULTS FOR 2020 - 2021**

	Year to Date - July 2021			Year to Date - July 2020			Electric		Water		Total Utility	
	Electric	Water	Total Utility	Electric	Water	Total Utility	2020 - 2021 I/(D)	%	2020 - 2021 I/(D)	%	2020 - 2021 I/(D)	%
	\$						\$	%	\$	%	\$	%
<b>OPERATING REVENUES</b>	\$ 27,079,375	3,512,504	30,591,879	26,130,106	2,836,350	28,966,456	949,269	3.6%	676,154	23.8%	1,625,423	5.6%
<b>OPERATING EXPENSES</b>												
Operation and Maintenance	24,908,646	1,927,530	26,836,176	22,724,769	1,760,268	24,485,037	(2,183,877)	-9.6%	(167,262)	-9.5%	(2,351,139)	-9.6%
Depreciation	1,358,074	923,345	2,281,418	1,487,890	1,072,889	2,560,779	129,817	8.7%	149,544	13.9%	279,361	10.9%
Total Operating Expenses	26,266,719	2,850,875	29,117,594	24,212,659	2,833,157	27,045,816	(2,054,060)	-8.5%	(17,718)	-0.6%	(2,071,778)	-7.7%
Operating Income	812,656	661,629	1,474,285	1,917,447	3,193	1,920,640	(1,104,791)	-57.6%	658,436	20621.2%	(446,355)	-23.2%
<b>NON-OPERATING REVENUE (EXPENSE)</b>												
Rental and Miscellaneous	116,365	165,578	281,943	64,318	171,397	235,715	52,047	80.9%	(5,819)	-3.4%	46,228	19.6%
Interdepartment Rent from Water	52,500	-	52,500	52,500	-	52,500	-	0.0%	-	-	-	0.0%
Investment Income	(5,305)	12,805	7,500	553,927	196,650	750,577	(559,232)	-101.0%	(183,845)	-93.5%	(743,077)	-99.0%
Interest Expense	(3,128)	(142)	(3,270)	(19,799)	(853)	(20,652)	16,671	84.2%	711	83.3%	17,382	84.2%
Gain on the Disposition of Property	33,550	-	33,550	(5,603)	-	(5,603)	39,153	-	-	-	39,153	-
Total Non-Operating Revenue (Expense)	193,982	178,241	372,223	645,343	367,194	1,012,537	(451,361)	-69.9%	(188,953)	-51.5%	(640,314)	-63.2%
Income Before Contributions and Transfers	1,006,637	839,870	1,846,508	2,562,790	370,387	2,933,177	(1,556,153)	-60.7%	469,483	126.8%	(1,086,669)	-37.0%
<b>CAPITAL CONTRIBUTIONS</b>	20,587	1,717,729	1,738,316	10,589	1,543,174	1,553,763	9,998	0.0%	174,555	11.3%	184,553	11.9%
<b>TRANSFER TO MUNICIPALITY</b>	(1,250,097)	(115,806)	(1,365,903)	(1,165,203)	(246,468)	(1,411,671)	(84,894)	-7.3%	130,662	53.0%	45,768	3.2%
<b>CHANGE IN NET POSITION</b>	(222,873)	2,441,794	2,218,921	1,408,176	1,667,093	3,075,269	(1,631,049)	-115.8%	774,701	46.5%	(656,348)	-27.8%

**SHAKOPEE PUBLIC UTILITIES**  
**ELECTRIC OPERATING REVENUE AND EXPENSE**  
For period ending July 31, 2021

	2021	2020	2020 - 2021	
			Increase (decrease)	
			\$	%
<b>OPERATING REVENUES</b>				
Sales of Electricity				
Residential	\$ 10,513,246	9,825,006	688,239	107.0 %
Commercial	16,103,830	15,795,840	307,990	101.9
Uncollectible accounts	-	-	-	
Total Sales of Electricity	<u>26,617,075</u>	<u>25,620,847</u>	<u>996,229</u>	<u>103.9</u>
Forfeited Discounts	-	64,961	(64,961)	-
Free service to the City of Shakopee	65,472	62,366	3,106	105.0
Conservation program	396,827	381,933	14,894	103.9
Total Operating Revenues	<u>27,079,375</u>	<u>26,130,106</u>	<u>949,269</u>	<u>103.6</u>
<b>OPERATING EXPENSES</b>				
Operations and Maintenance				
Purchased power	21,145,414	19,222,979	1,922,436	110.0
Distribution operation expenses	228,106	332,747	(104,641)	68.6 (1)
Distribution system maintenance	528,154	364,941	163,212	144.7 (2)
Maintenance of general plant	156,630	141,152	15,478	111.0
Total Operation and Maintenance	<u>22,058,303</u>	<u>20,061,819</u>	<u>1,996,485</u>	<u>110.0</u>
Customer Accounts				
Meter Reading	80,274	75,613	4,661	106.2
Customer records and collection	364,386	299,553	64,833	121.6 (3)
Energy conservation	160,648	197,187	(36,539)	81.5
Total Customer Accounts	<u>605,307</u>	<u>572,353</u>	<u>32,955</u>	<u>105.8</u>
Administrative and General				
Administrative and general salaries	302,701	432,877	(130,177)	69.9 (4)
Office supplies and expense	117,579	138,984	(21,405)	84.6
Outside services employed	401,594	139,809	261,785	287.2 (5)
Insurance	102,463	75,622	26,842	135.5 (6)
Employee Benefits	1,128,256	1,127,788	468	100.0
Miscellaneous general	192,442	175,518	16,924	109.6
Total Administrative and General	<u>2,245,035</u>	<u>2,090,597</u>	<u>154,438</u>	<u>107.4</u>
Total Operating Expenses	<u>24,908,646</u>	<u>22,724,769</u>	<u>2,183,877</u>	<u>109.6</u>
Depreciation	1,358,074	1,487,890	(129,816)	91.3
Total Operating Expenses	<u>\$ 26,266,719</u>	<u>24,212,658</u>	<u>2,054,061</u>	<u>108.5</u>
Operating Income	<u>\$ 812,656</u>	<u>1,917,448</u>	<u>(1,104,792)</u>	<u>42.4</u>

**Item Explanation of Items Percentage Received/Expended Less than 80% or Greater than 120% and \$ Variance Greater than \$15,000.**

- (1) Variance due to less overhead line, underground line, and metering expenses than in prior year.
- (2) Variance due to more expenses in the maintenance of overhead lines/tree trimming, street lighting, and underground lines.
- (3) Variance due to Paymentus transaction fees \$10k/month higher than in prior year.
- (4) Variance due to less payroll expenses than in prior year.
- (5) Variance due to Finance and HR consulting expenses in current year.
- (6) Variance due to property and casualty insurance premiums \$3,800/month higher than in prior year.

**SHAKOPEE PUBLIC UTILITIES**  
**WATER OPERATING REVENUE AND EXPENSE**  
For period ending July 31, 2021

	2021	2020	2020 - 2021		%
			Increase (decrease)		
	\$		\$	%	
<b>OPERATING REVENUES</b>					
Sales of Water	3,512,504	2,832,620	679,885	124.0	(1)
Forfeited Discounts	-	3,730	(3,730)	-	
<b>Total Operating Revenues</b>	<b>3,512,504</b>	<b>2,836,350</b>	<b>676,155</b>	<b>123.8</b>	
<b>OPERATING EXPENSES</b>					
Operations and Maintenance					
Pumping and distribution operation	354,770	371,717	(16,947)	95.4	
Pumping and distribution maintenance	241,608	176,432	65,176	136.9	(2)
Power for pumping	176,953	165,218	11,735	107.1	
Maintenance of general plant	25,656	23,518	2,138	109.1	
<b>Total Operation and Maintenance</b>	<b>798,987</b>	<b>736,886</b>	<b>62,101</b>	<b>108.4</b>	
Customer Accounts					
Meter Reading	41,986	42,108	(123)	99.7	
Customer records and collection	118,663	92,391	26,273	128.4	(3)
Energy conservation	2,396	558	1,837	429.1	
<b>Total Customer Accounts</b>	<b>163,045</b>	<b>135,057</b>	<b>27,988</b>	<b>120.7</b>	
Administrative and General					
Administrative and general salaries	228,520	269,861	(41,341)	84.7	
Office supplies and expense	35,355	45,537	(10,182)	77.6	
Outside services employed	152,742	49,228	103,514	310.3	(4)
Insurance	32,529	25,207	7,322	129.0	
Employee Benefits	404,286	391,784	12,501	103.2	
Miscellaneous general	112,067	106,707	5,360	105.0	
<b>Total Administrative and General</b>	<b>965,498</b>	<b>888,325</b>	<b>77,173</b>	<b>108.7</b>	
<b>Total Operating Expenses</b>	<b>1,927,530</b>	<b>1,760,268</b>	<b>167,262</b>	<b>109.5</b>	
Depreciation	923,345	1,072,889	(149,544)	86.1	
<b>Total Operating Expenses</b>	<b>2,850,875</b>	<b>2,833,157</b>	<b>17,718</b>	<b>100.6</b>	
<b>Operating Income</b>	<b>\$ 661,629</b>	<b>3,193</b>	<b>658,437</b>	<b>20,723.6</b>	

Item Explanation of Items Percentage Received/Expended Less than 80% or Greater than 120% and \$ Variance Greater than \$15,000.

- (1) Variance due to %500K more in residential water sales, \$30K more in industrial water sales, and \$100K more in water reconstruction.
- (2) Variance due to more expenses for maintenance of pumping equipment, valves, meters, and hydrants.
- (3) Variance due to Paymentus transaction fees \$10k/month higher than in prior year.
- (4) Variance due to Finance and HR consulting expenses in current year.



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Main 952.445-1988 • Fax 952.445-7767  
www.shakopeeutilities.com

September 16, 2021

TO: Greg Drent, General Manager

A handwritten signature in black ink, appearing to be "GD", is written above the name "Greg Drent" in the "TO:" line.

FROM: Sharon Walsh, Director of Customer Relations and Marketing

A handwritten signature in black ink, appearing to be "SNW", is written to the right of the name "Sharon Walsh" in the "FROM:" line.

SUBJECT: Deposit Resolution #2021-17

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Overview

The attached resolution reflects the new changes to SPU's deposit policy, providing customers with a 5-year good payment history a refund of their paid deposit prior to their final bill. Good payment history refunds will be applied to customer accounts in the same manner as deposits that are applied with final bills. Customer requests or exceptions to this process can be addressed with a refund check.

Additionally, commercial and industrial deposit amounts have been reduced from two months to one month average billings as part of this policy change.

Action Required

Accept Resolution #2021-17 as presented.

RESOLUTION #2021 - 17

A RESOLUTION AMENDING RESOLUTION #1215  
ADOPTING UTILITY DEPOSITS FOR THE  
SHAKOPEE PUBLIC UTILITIES

WHEREAS, the Shakopee Public Utilities Commission shall require deposits to be used to guarantee all Utility billings including but not limited to electric and water;

AND WHEREAS, prior to the furnishing of any service to any user, such user shall complete an application to request service and pay required deposit fee prior to connection of service and be required to comply with deposit requirements under any of the following conditions:

- a. A customer is new to the Utility's service.
- b. An existing customer changes residence, address or name within the Utility's service area or requires additional service.
- c. The service of the customer has been disconnected or has been subject to disconnection for nonpayment of a bill which is not in dispute.
- d. Customer enters into bankruptcy.

AND WHEREAS, the deposit requirements shall be as follows and subject to the conditions as outlined above:

- |                                     |                        |
|-------------------------------------|------------------------|
| ● Residential Owners                | No deposit is required |
| ● Residential Renters               | \$100 Utility Deposit  |
| ● Residential Renters Electric Heat | \$200 Utility Deposit  |
| ● Commercial Customer               | One month Deposit      |
| ● Industrial Customer               | One month Deposit      |

Commercial and Industrial customers will pay a deposit equal to one month average billings. If customer has not established a history to determine deposit requirements, then the former occupant property billing history shall be used with an adjustment to be made once current history is established. Large non-residential customers may in lieu of cash deposit, furnish bond for service satisfactory to the Utility.

- Accounts opened by the City of Shakopee, Shakopee Public Schools, Minnesota Municipal Power Agency and Scott County will not be required to submit a deposit. However, if an account is shut-off for delinquency reasons, the Utility reserves the right to require a deposit on all accounts of said entity.



AND WHEREAS, if customer fails to pay their deposit, they are subject to withholding of service until payment is received.

NOW THEREFORE BE IT RESOLVED, that said deposits, will accrue interest annually at the rate set forth by the Minnesota Department of Commerce and Minnesota State Statute 325.F.02. Deposit and applicable interest will be returned on customer's final bill or to the customer's account balance at the end of a five year period of good payment history as defined below:

- No more than three (3) late payments and
- No disconnection of service for non-payment

Any remaining credit balance will be refunded to the customer. Interest will be paid monthly from date of deposit to date of disconnection or deposit refund.

BE IT FURTHER RESOLVED that in the event any conflict arises due to the provisions of this Resolution the customer may appeal in writing to the Shakopee Public Utilities Commission on a case by case basis.

The new deposit requirements to be effective beginning October 1, 2021.

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 20th day of September, 2021.

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Commission President: Kathi Mocol



ATTEST:

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Commission Secretary: Greg Drent



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Shakopee, Minnesota 55379  
Main 952.445-1988 · Fax 952.445-7767  
www.shakopeeutilities.com

TO: Greg Drent, General Manager   
FROM: Joseph D. Adams, Planning & Engineering Director   
SUBJECT: DR Horton/SPU Land Rights Swap  
DATE: September 16, 2021

ISSUE

The proposed land rights swap with DR Horton is submitted for Commission approval.

BACKGROUND

DR Horton has requested and the Commission has approved a land rights swap in concept that would exchange an easement on SPU property for a storm water drainage pond for an out lot that SPU could site a water supply well on for future capacity needs.

DISCUSSION

The proposed agreement as drafted by DR Horton has been reviewed by staff and SPU's attorney. DR Horton has accepted the review comments and the attached agreement is the final version submitted for Commission approval. There are additional documents also attached that are necessary to effect the land rights swap that are currently being reviewed by SPU's attorney.

REQUESTED ACTION

Staff requests the Commission approve the agreement subject to attorney review of the additional documents and authorize its execution.

**EXCHANGE AGREEMENT**

**DATE:** \_\_\_\_\_, 2021

**BETWEEN:** **D.R. HORTON, INC.-MINNESOTA,**  
**a Delaware corporation** (“DHI”)

**AND:** **SHAKOPEE PUBLIC UTILITIES COMMISSION,**  
**a Minnesota municipal utility commission** (“SPUC”)

**RECITALS**

A. DHI is the fee owner of Lot 1, Block 1, Outlots at La Tour Terrace (the “Parent Parcel”). DHI has obtained Preliminary Plat approval from the City of Shakopee (the “City”) for a subdivision of the Parent Parcel, to be named Windermere South 5<sup>th</sup> Addition, which subdivision will contain the Access Parcel, as defined below.

B. SPUC is the fee owner of Lot 1, Block 1, La Tour Terrace (the “SPUC Parcel”) and in exchange for the Access Parcel, which DHI wishes to convey and SPUC wishes to receive, SPUC wishes to convey and DHI wishes the City of Shakopee (the “City”) and itself to obtain a permanent and temporary easement, respectively, over a portion of the SPUC Parcel as further described below.

**AGREEMENT**

**NOW, THEREFORE,** in consideration of the foregoing Recitals, the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**I. EXCHANGE – FEE TITLE TO ACCESS PARCEL**

- 1.1 Access Parcel. DHI is in the process of platting the parcel of real property depicted in Exhibit A as Outlot B, Windermere South 5<sup>th</sup> Addition, in the proposed plat of Windermere South 5<sup>th</sup> Addition (the “Plat”), together with all improvements thereon and all rights, privileges, easements, licenses, appurtenances and hereditaments relating thereto (collectively, the “Access Parcel”). The exact dimensions, location and legal description of the Access Parcel will not be finally determined until the Plat is finalized. Notwithstanding any current insufficiency of the legal description of the Access Parcel, the parties desire to proceed to enter into this Exchange Agreement (this “Agreement”) and to mutually agree on the exact dimensions, location and legal description of the Access Parcel pursuant to the Plat, which Plat will be recorded at or prior to Closing.
- 1.2 Conveyance of Access Parcel. Subject to the terms and conditions of this Agreement, DHI will transfer and convey to SPUC, and SPUC will receive and accept from DHI, the Access Parcel. SPUC intends to use the Access Parcel as an access parcel to the SPUC Parcel.

- 1.3 Closing. The closing of the conveyance (“Closing”) will occur at such time as DHI has received all approvals and is prepared to record the Plat.

## **II. EXCHANGE – GRANT OF EASEMENTS**

- 2.1 Payment in Form of Exchange. In exchange for the Access Parcel, SPUC will grant to DHI a temporary easement (the “Temporary Easement”) and SPUC will grant to the City a permanent easement (the “Drainage Easement”), both over a portion of the SPUC Parcel, for drainage, ponding and grading purposes. The terms of the Drainage Easement are more specifically defined in Exhibit B. The terms of the Temporary Easement are more specifically defined in Exhibit C.
- 2.2 Timing of Exchange. SPUC and DHI will sign and deliver the Temporary Easement to each other immediately following the expiration of the SPUC Due Diligence Period under Section 4.3 and SPUC will sign and deliver the Drainage Easement to the City and the City will sign the Drainage Easement at or before Closing.

## **III. TITLE TO ACCESS PARCEL**

- 3.1 Preliminary Title Commitment. Within fifteen (15) days of the date of this Agreement, DHI will furnish to SPUC a commitment for an owner’s policy of title insurance (ALTA Form 06/17/06) covering the tax parcel of land underlying the Access Parcel (the “Preliminary Title Commitment”), issued by Old Republic National Title Insurance Company, through Scott County Abstract and Title, Inc., or such other title insurer as may be acceptable to SPUC (the “Title Company”), with standard exceptions for mechanic’s liens and parties in possession deleted, with searches for special assessments and with an amount of coverage equal to \$125,000.00. The Preliminary Title Commitment will include a copy of each instrument listed as an exception to title or referred to therein. The service charge for the Preliminary Title Commitment will be paid by DHI.
- 3.2 Final Title Commitment. As soon as the Access Parcel is able to be platted, DHI will furnish to SPUC a final commitment for an owner’s policy of title insurance (ALTA Form 06/17/06) covering the Access Parcel (the “Final Title Commitment”) issued by the Title Company, with standard exceptions for mechanic’s liens, survey and parties in possession deleted, with searches for special assessments and with an amount of coverage equal to \$125,000.00. The Final Title Commitment will include a copy of each instrument listed as an exception to title or referred to therein, except for any instruments previously furnished with the Preliminary Final Commitment. The service charge for the Final Title Commitment will be paid by DHI, but the premium for any policy issued pursuant to the Final Title Commitment will be paid by SPUC.
- 3.3 Survey. As soon as the Access Parcel is able to be platted, and DHI has completed the grading under the Temporary Easement, then DHI will furnish to SPUC at DHI’s cost an “as-built” survey in both print and CADD formats of the Access Parcel made by a registered land surveyor and certified to SPUC, the Title Company and the title insurer, showing the location of any easements, improvements, encroachments, and the contours and topography of the Access Parcel, and conforming to the current standard detail

requirements established by the American Land Title Association and the National Society for Professional Surveyors (the "Survey").

- 3.4 Examination of Title. SPUC will be allowed thirty (30) days after receipt of the Preliminary Title Commitment and fifteen (15) days after receipt of the Final Title Commitment and Survey to examine title to the Access Parcel and make objections. Objections will be made in writing or be deemed waived. Any exceptions to title accepted by SPUC or not timely objected to as aforesaid are, collectively, the "Permitted Encumbrances."
- 3.5 Corrections to Title. If any objections to title to the Access Parcel are made as provided in Section 3.4, DHI may elect in its sole and absolute discretion, but is not obligated, to attempt to cure any or all objections. If DHI elects to attempt to cure any such objections, DHI will be allowed until ten (10) days prior to the last day of the Due Diligence Period to cure or agree to cure at Closing (i.e., by providing required title affidavits) such objections. If DHI notifies SPUC that it chooses not to cure any or all objections, or if DHI has not informed SPUC at least ten (10) days prior to the end of the Due Diligence Period that such objections are or will be cured, then SPUC may as its sole remedies either: (a) terminate this Agreement by giving DHI written notice thereof on or before the last day of the Due Diligence Period, in which case both parties shall be released from all further obligations under this Agreement (subject, however, to any other obligations and agreements which expressly survive termination); or (b) waive all or any of the objections and close the transaction, in which event the uncured objections shall be deemed waived by SPUC and shall thereafter be Permitted Encumbrances under this Agreement. If SPUC fails to give such written notice of termination within the time required herein, it shall be conclusively deemed that SPUC has elected to waive the objections not so cured and to accept them as Permitted Encumbrances.

#### **IV. REVIEW OF THE ACCESS PARCEL**

- 4.1 Due Diligence Information. Within fifteen (15) days after the date of this Agreement, DHI will make available at its offices for review and copy by SPUC all records, engineering studies, reports and tests, construction reports, studies and other permitting documents for Windermere South 5<sup>th</sup> Addition, "as-built" CADD files of construction documents, and other documents and surveys relating to the condition, suitability, and desirability of the Access Parcel that are in the possession of DHI or otherwise reasonably available to DHI (the "Available Reports"). As they become available in the development process, DHI shall similarly make available to SPUC all such further documents regarding the Access Parcel, which shall also be considered part of the Available Reports. Notwithstanding the foregoing, the Available Reports shall exclude all environmental reports except the ESA Report of Findings discussed in Section 4.2, any reports or documents which are proprietary to DHI or which are privileged and confidential pursuant to a recognized legal privilege (such as attorney-client communications and/or attorney work product) (such excluded documents and reports are referred to collectively as the "Excluded Materials"). For purposes hereof, proprietary information includes any internally-generated or internally-created reports, investigations, analysis and other documents which relate to or constitute cash flow budgets, accounting budgets, marketing information, market analysis or similar information. All Available Reports and other materials prepared by third parties

for, on behalf of, or at the request of DHI, but expressly excluding any Excluded Materials, are collectively referred to herein as “Due Diligence Information.” With respect to any Due Diligence Information provided to SPUC and any other information made available to SPUC by or on behalf of DHI, SPUC acknowledges and agrees that: (a) DHI makes no covenant, representation or warranty whatsoever as to such information, including without limitation, its content, reliability, accuracy or completeness; (b) if SPUC uses or relies on any information provided by DHI, SPUC shall do so solely at its own risk, and DHI makes no representation, warranty or assurance as to whether SPUC has any right to use or rely thereon; (c) the parties preparing any such information are not the agents of DHI; (d) except to the extent that Mike Suel, DHI’s Land Development Manager, becomes personally aware of any such misrepresentations, misstatements, mistakes, errors or other inaccuracies, DHI shall have no duty to advise SPUC of any misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such information; and (e) DHI shall have no liability, and is hereby released from all liability to SPUC, its successors and/or assigns, with respect to such information, including without limitation, any liability for misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such information, except to the extent that Mike Suel, DHI’s Land Development Manager, becomes personally aware of any such misrepresentations, misstatements, mistakes, errors or other inaccuracies and DHI fails within a reasonable time period to so advise SPUC in accordance with subsection (d).

- 4.2 ESA Report of Findings. Within fifteen (15) days after the date of this Agreement, DHI will cause to be prepared and will provide a copy to SPUC of an Environmental Site Assessment Report of Findings (the “ESA Report of Findings”), which ESA Report of Findings will include all of the Access Parcel. DHI shall have no liability, and is hereby released from all liability to SPUC, its successors and/or assigns, with respect to such information, including without limitation, any liability for misrepresentations, misstatements, mistakes, errors or other inaccuracies contained in such ESA Report of Findings, except to the extent that Mike Suel, DHI’s Land Development Manager, becomes personally aware of any such misrepresentations, misstatements, mistakes, errors or other inaccuracies and DHI fails within a reasonable time period to advise SPUC of same.
- 4.3 Due Diligence. SPUC will be allowed thirty (30) days after the date of this Agreement (the “Due Diligence Period”) to review the Due Diligence Information and the ESA Report of Findings, inspect the Access Parcel, perform such inventories, observations, tests, and investigations as SPUC may reasonably deem appropriate, and otherwise satisfy itself regarding the condition, suitability, and desirability of the Access Parcel. If SPUC in its sole discretion is not satisfied with the Access Parcel, SPUC may on or before the expiration of the Due Diligence Period terminate this Agreement by giving written notice to DHI. Upon such termination, neither party will have any further obligations under this Agreement.
- 4.4 Environmental Inspection. SPUC may provide its environmental consultant with a copy of the ESA Report of Findings and pursuant to Section 10.2, SPUC may at its cost conduct investigations of the environmental condition of the Access Parcel. Such investigation will include soil borings and DHI consents to such borings so long as SPUC provides DHI with the scope of work prior to completion of the borings and allows DHI to have its

representative present at the Access Parcel during the completion of such work. If SPUC conducts a Phase I environmental investigation and such report contains a recommendation for a Phase II investigation, SPUC will have the option of either terminating this Agreement or providing to DHI a written request for a Phase II investigation that includes an explanation of the reasons for such request and the proposed Phase II testing. DHI may consent to the Phase II investigation in its sole and absolute discretion and, if DHI does not consent, SPUC may terminate this Agreement. If such consent is granted, SPUC may order at SPUC's cost a Phase II investigation. If a Phase II investigation is ordered, the Due Diligence Period will be extended by an additional sixty (60) days for investigation and submittal of such report.

- 4.5 Confidentiality. SPUC may disclose information in the Due Diligence Information and the ESA Report of Findings or information otherwise obtained by SPUC in the course of its review and inspections to its attorneys, consultants, investors, lenders and tenants. Otherwise, unless and until Closing occurs and subject to the Minnesota Government Data Practices Act, SPUC will keep all such information confidential.
- 4.6 Cooperation. DHI will cooperate with SPUC in making all necessary filings, petitions, and submissions required by SPUC to obtain the necessary governmental approvals for SPUC's planned use of the Access Parcel. DHI will take no action, either personally or in connection with a related entity, that would be inconsistent with or in contravention of its obligations to cooperate hereunder.

## V. CONDITIONS TO CLOSING

- 5.1 DHI Conditions. The obligation of DHI to complete the exchange under this Agreement is subject to the reasonable satisfaction of DHI that:
- (a) the representations and warranties of SPUC contained in Section 9.2 are true and correct in all material respects as of Closing;
  - (b) SPUC has in all material respects performed and observed all covenants, agreements and conditions of this Agreement to be performed or observed by it prior to or on Closing;
  - (c) DHI has received a certificate or certificates dated the day of Closing and signed by a responsible officer of SPUC certifying as to the matters set forth in items (a) and (b) of this Section;
  - (d) no action or proceeding has been instituted or threatened by any third party unaffiliated with DHI to enjoin or delay this transaction or obtain material damages from DHI with respect to this transaction which DHI in good faith believes presents a significant risk of succeeding; and
  - (e) SPUC has delivered to DHI all of the items required to be delivered to DHI pursuant to Section 6.1 and has delivered the Drainage Easement to the City.

5.2 SPUC Conditions. The obligation of SPUC to complete the exchange under this Agreement is subject to the reasonable satisfaction of SPUC that:

- (a) the representations and warranties of DHI contained in Section 9.1 are true and correct in all material respects as of Closing;
- (b) DHI has in all material respects performed and observed all covenants, agreements and conditions of this Agreement to be performed or observed by it prior to or at Closing;
- (c) SPUC has received a certificate or certificates dated the day of Closing and signed by a responsible officer of DHI certifying as to the matters set forth in items (a) and (b) of this Section;
- (d) no action or proceeding has been instituted or threatened by any third party unaffiliated with SPUC to enjoin or delay this transaction or obtain material damages from SPUC with respect to this transaction which SPUC in good faith believes presents a significant risk of succeeding;
- (e) as of two (2) days before and as of Closing, DHI has removed from the Access Parcel any and all containers of motor oil, paint, solvents, petroleum products, all motor vehicle tires and batteries, and all Hazardous Substances, pollutants, and environmental contaminants;
- (f) DHI has all Stormwater Pollution Prevention Plan (“SWPPP”) erosion control measures and temporary seeding and mulching in place on the Access Parcel; and
- (g) DHI has delivered to SPUC all of the items required to be delivered to SPUC pursuant to Section 6.2.

5.3 Unsatisfied Conditions. If any condition set out in Section 5.1 or 5.2 is unsatisfied on the date scheduled for Closing, the party for whose benefit the condition is may at its option:

- (a) waive the condition and proceed with Closing;
- (b) delay Closing for up to sixty (60) days to allow the condition to be satisfied; or
- (c) terminate this Agreement.

If this Agreement is so terminated, neither DHI nor SPUC will have the right to specific performance or damages for default of this Agreement.

## VI. CLOSING

6.1 SPUC’s Closing Documents. SPUC will deliver to DHI at Closing:



- (a) a resolution of the board of commissioners of SPUC authorizing and approving the transaction contemplated by this Agreement, certified as true and correct by the secretary of SPUC;
- (b) the original Drainage Easement executed by SPUC and the City and substantially in the form of Exhibit B attached hereto;
- (c) a CSW Notice of Permit Modification Form regarding the SWPPP to be completed, provided and submitted to the Minnesota Pollution Control Agency (“MPCA”) by DHI pursuant to Section 6.2(g), completed as to SPUC’s portion of the Form and executed by SPUC; and
- (d) any other items required by this Agreement or reasonably required by the Title Company.

6.2 DHI’s Closing Documents. DHI will deliver to SPUC at Closing:

- (a) a limited warranty deed duly executed by DHI conveying the Access Parcel to SPUC;
- (b) original copies of all contracts and records in DHI’s possession;
- (c) an affidavit satisfactory to SPUC that DHI is not a foreign person under Section 1445 of the United States Internal Revenue Code;
- (d) a well disclosure statement as required under Minnesota Statutes section 103I.235, if appropriate disclaimer language is not contained in the deed delivered at Closing;
- (e) an affidavit satisfactory to SPUC that at Closing there are no outstanding, unsatisfied judgments, tax liens, or bankruptcies against DHI, no labor, services, materials, or machinery furnished to the Access Parcel for which mechanics’ liens could be filed, and no unrecorded interests in the Access Parcel which have not been fully disclosed to SPUC;
- (f) a resolution of the board of directors of DHI authorizing and approving the transaction contemplated by this Agreement, certified as true and correct by an officer of DHI;
- (g) a CSW Notice of Permit Modification Form regarding the SWPPP to be completed (except for SPUC’s portion), executed (except for SPUC’s execution of its portion) and submitted to the MPCA by DHI, and a copy of the State Storm Water General Permit for Lot 1, Block 1, Outlots at La Tour Terrace; and
- (h) any other items required by this Agreement or reasonably required by the Title Company.

6.3 Preparation and Delivery of Access Parcel. Prior to Closing, DHI will:

- (a) properly seal and abandon any wells on the Access Parcel per the Minnesota Department of Health and other applicable requirements;
  - (b) properly remove any septic systems (including any tanks and drainfields) on the Access Parcel per the Minnesota Department of Health and other applicable requirements;
  - (c) grade and deliver the Access Parcel in accordance with the grading plan approved by SPUC and the City; and
  - (d) remove any remaining improvements, including basement concrete block and floors.
- 6.4 Installation of Public Street, Sanitary Sewer and Water Stubs, and Storm Water Improvements. After Closing, DHI shall at its sole cost and expense install a 4-inch sanitary sewer stub and one 1-inch water main stub to the perimeter of the Access Parcel and install a public street adjacent to the Access Parcel, all in accordance with the street and utility plans on file with the City in connection with the preliminary Plat and the development plans. DHI will use its best efforts to complete this work by November 1, 2022, subject to *force majeure*.
- 6.5 Delivery of Possession. DHI will deliver possession of the Access Parcel to SPUC at Closing.
- 6.6 Further Actions. At SPUC's request from time to time after Closing, DHI will at no cost to DHI execute and deliver such further documents of conveyance and take such other action as SPUC may reasonably require to convey the Access Parcel to SPUC.

## **VII. CLOSING COSTS AND PRORATIONS**

- 7.1 Closing Costs. SPUC and DHI will each be responsible for its legal, accounting and other expenses associated with the transaction contemplated by this Agreement up to and including the date final adjustments are made pursuant to this Agreement. DHI will be responsible for any document recording fees required for correction of title and the document recording fees for the Drainage Easement and the Temporary Easement. SPUC will pay any state deed tax required in connection with the Access Parcel, all other document recording fees, fees associated with the transfer or obtaining of licenses and permits required to operate the Access Parcel, mortgage registry taxes, and any sales or use taxes required in connection with the transaction. DHI and SPUC will each pay half of the closing fee and any escrow fees imposed by the Title Company, title insurer or its closing agent in connection with this transaction.
- 7.2 Taxes and Assessments. Real estate taxes with respect to the Access Parcel due and payable in the year in which Closing occurs will be prorated as of Closing. DHI will pay all special assessments payable, levied or pending as of Closing and all real estate taxes due and payable in years prior to the year in which Closing occurs. SPUC will pay all such taxes and assessments due and payable in years following the year in which Closing occurs.

- 7.3 Income and Expenses. Except as set out in Section 7.2, all income and operating expenses relating to the Access Parcel will be prorated as of the close of business of the day before Closing. DHI will be responsible for the expenses and entitled to the revenues accrued or applicable to the period prior to Closing. SPUC will be responsible for the expenses and entitled to the revenues accrued or applicable to the day of Closing and thereafter.
- 7.4 Estimates. If any amount to be apportioned under Section 7.3 cannot be calculated with precision because any item included in such calculation is not then known, such calculation will be made on the basis of reasonable estimates of DHI of the items in question. Promptly after any such item becomes known to either party, such party will so notify the other and will include in such notice the amount of any required adjustment. If such adjustment requires an additional payment by SPUC to DHI, SPUC will make such payment to DHI simultaneously with its giving or within twenty (20) days of its receipt of such notice, as the case may be. If such adjustment requires a refund by DHI to SPUC, DHI will make such refund simultaneously with its giving or within twenty (20) days after its receipt of such notice, as the case may be.

#### VIII. ACCESS PARCEL CONVEYED “AS IS.”

- 8.1 Access Parcel Conveyed As Is, Where Is, and with all Faults. As a material inducement to DHI to enter into this Agreement and to transfer and convey the Access Parcel to SPUC subject to the terms of this Agreement and for the exchange of the Drainage Easement and the Temporary Easement stated herein, DHI and SPUC covenant and agree as set forth in this Section 8.1. SPUC acknowledges and agrees that but for SPUC’s agreement to these provisions, DHI would not convey the Access Parcel to SPUC. SPUC agrees that SPUC will take the Access Parcel at Closing subject to the following conditions:
- (a) Disclaimer of Warranties. Except for the representations, warranties, covenants and agreements expressly set forth in this Agreement, DHI hereby specifically disclaims any warranty, guaranty, promise, covenant, agreement, or representation of any kind or character, oral or written, past, present or future, express or implied, of, as to, or concerning: (i) the nature and condition of the Access Parcel, including, without limitation, (A) the water, soil and geology, the suitability thereof and/or of the Access Parcel for any and all activities and uses which SPUC may elect to conduct, (B) the manner or quality of the construction or materials, if any, incorporated into the Access Parcel and/or the manner, quality, state of repair or lack of repair of the Access Parcel or any improvements thereon or related thereto, (including without limitation any offsite improvements and infrastructure) and (C) the existence of any environmental hazards or conditions (including but not limited to the presence of Hazardous Substances of any type and/or above or below ground storage tanks, and/or pipelines) at, on, under, or near the Access Parcel or compliance with any applicable Environmental Laws or other Applicable Laws of any Governmental Authority; (ii) the nature and extent of any right-of-way, lease, possession, lien, encumbrance, license, reservation, or other condition concerning the Access Parcel; (iii) the value of the Access Parcel and/or the income or profits which may or may not be derived from the Access Parcel, or any potential appreciation in value or the resale value of the Access Parcel; and (iv) the

compliance of the Access Parcel or its operation with any laws, ordinances, or regulations of any Governmental Authority, including without limitation any Environmental Laws and/or any land use laws or the compliance of the Access Parcel or its operation with any development agreements, covenants, conditions, or restrictions, or any other agreements or arrangements related to the development, use, or operation of the Access Parcel. Except for the representations, warranties, covenants and agreements expressly set forth in this Agreement, the conveyance of the Access Parcel is made on an **“AS IS”, “WHERE IS” AND “WITH ALL FAULTS”** basis, and SPUC expressly acknowledges that DHI makes no warranty or representation, express or implied, or arising by operation of law, including, but not limited to, any warranty of condition, title (other than the special warranty of title with respect to the Access Parcel), zoning, tax consequences, operating history or projections, valuation, governmental approvals, or any other matter or thing relating to or affecting the Access Parcel, including, without limitation, (i) the value, merchantability, marketability, profitability, suitability or fitness for a particular use or purpose of the Access Parcel or any portion thereof, and (ii) the manner or quality of construction or materials incorporated into any of the Access Parcel. Except as provided in this Agreement, DHI has no obligation to make repairs, replacements or improvements to the Access Parcel, or to pay any fees, costs or expenses related to the Access Parcel, or for any other liability or obligation with respect to the Access Parcel (except for any taxes or assessments to be paid by DHI at Closing and other costs and expenses to be paid by DHI as expressly set forth in this Agreement).

- (b) “Hazardous Substances” means any pollutants, materials, substances, or wastes identified or regulated in any way under applicable Environmental Laws, including, without limitation: any “hazardous waste” as defined by RCRA, and regulations promulgated thereunder, any “hazardous substance” as defined by CERCLA, and regulations promulgated thereunder, and any toxic substance as defined under or regulated by the Toxic Substances Control Act; asbestos, polychlorinated biphenyls, radon, freon and other chlorofluorocarbons, explosive and radioactive materials; petroleum and petroleum based products; urea formaldehyde foam insulation; underground and above ground storage tanks, whether empty, filled or partially filled with any substance, including without limitation any petroleum product or any other hazardous substance; any substance the presence of which on the Access Parcel is prohibited by any Environmental Laws; and any other substance or material which by or under any Environmental Laws requires special handling or notification of any Governmental Authority in its collection, storage, treatment, use, or disposal.
- (c) “Environmental Laws” means any local, state, or Federal law, rule or regulation pertaining to environmental regulation, contamination, clean-up, or disclosure, or otherwise to health and safety, including without limitation each of the following, as the same may be amended from time to time, and all regulations promulgated pursuant to or in connection with any of the following: (1) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901 et seq.), as amended by the Used Oil Recycling Act of 1980, the Solid Waste Disposal Act Amendments of

1980, and the Hazardous and Solid Waste Amendments of 1984 (as amended, “RCRA”); (2) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. § 9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (as amended, “CERCLA”); (3) the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.); (4) the Endangered Species Act (15 U.S.C. § 1531 et seq.); (5) laws, statutes, ordinances, rules, regulations, orders, or determinations relating to “wetlands”, including without limitation those set forth in the Clean Water Act (33 U.S.C. § 1251 et seq.); and (6) the Federal Insecticide, Fungicide and Rodenticide Act, as amended.

- (d) “Governmental Authority” or “Governmental Authorities” means the United States, the State of Minnesota, the County of Scott, and the City, or any other governmental authority or agency having jurisdiction over the Access Parcel or any activities SPUC may conduct on or in the vicinity of the Access Parcel, including without limitation any municipal utility district, water control and improvement district, or similar district or taxing authority in which the Access Parcel is located or otherwise having jurisdiction over the Access Parcel, and any other agency, department, commission, board, or bureau or instrumentality of any of the foregoing, including without limitation the Army Corps of Engineers, the Federal Emergency Management Agency, the Environmental Protection Agency, and the MPCA.
- (e) “Applicable Law” means any city, county, state, federal, or other governmental regulation, ordinance, law, code, statute or constitution, including any zoning ordinance or use restriction or any administrative, executive, or judicial orders, decrees, or determinations which govern, regulate, control, or otherwise apply to or relate in any manner to the Access Parcel and the ownership, development, use, or operation of the Access Parcel, to the construction, marketing, leasing, and sale of improvements constructed (or to be constructed) on the Access Parcel, and/or to the interpretation and enforcement of this Agreement, including without limitation all Environmental Laws (as hereinafter defined).
- (f) SPUC’s Additional Representations, Warranties and Covenants. SPUC represents to DHI that SPUC is a knowledgeable buyer of real estate and that, except for the representations, warranties, covenants, and agreements of DHI set forth in this Agreement, SPUC is relying solely on its own expertise and that of SPUC’s consultants and advisors in purchasing the Access Parcel. SPUC further acknowledges and agrees that having been given the opportunity to inspect the Access Parcel, except for the representations, warranties, covenants, and agreements of DHI set forth in this Agreement, SPUC is relying solely on and will rely solely on its own investigation of the Access Parcel and not on any information provided or to be provided by DHI or any employee, agent, representative, or broker of DHI or otherwise attributed to DHI, and all such reliance is expressly and unequivocally disclaimed by SPUC. Except as set forth in this Agreement, SPUC further unequivocally disclaims the existence of any duty to disclose on the part of DHI or any employee, agent, representative, or broker of DHI and any reliance of SPUC on the silence or any alleged nondisclosure of DHI or any of its employees,

agents, representatives, or brokers. SPUC further acknowledges and agrees that any information provided or to be provided with respect to the Access Parcel was obtained from a variety of sources and that DHI has not made any independent investigation or verification of such information and makes no representations as to the accuracy or completeness of such information. Except for the representations, warranties, covenants, and agreements of DHI set forth in this Agreement, DHI is not liable or bound in any manner by any verbal or written statements, representations or information pertaining to the Access Parcel, or the operation thereof, furnished by any real estate broker, agent, employee, servant or other person. Upon Closing, except for the representations, warranties, covenants, and agreements of DHI set forth in this Agreement, SPUC shall assume the risk that adverse matters, including, but not limited to, adverse physical and environmental conditions and development and construction defects, may not have been revealed by SPUC's inspections and investigations and includes, without limitation, matters which, if known by SPUC, would materially affect SPUC's decision to acquire the Access Parcel. Except for the representations, warranties, covenants, and agreements of DHI set forth in this Agreement, SPUC hereby assumes all risk and liability (and agrees that DHI shall not be liable for any special, direct, indirect, consequential, incidental, punitive, or other damages) resulting or arising from or relating to the ownership, use, condition, location, development, maintenance, repair, or operation of the Access Parcel.

- 8.2 Survival. SPUC hereby acknowledges, confirms, and agrees as follows: (i) the provisions of Section 8.1 are a material inducement to DHI entering into the transaction which is the subject of this Agreement, including without limitation the Drainage Easement to be granted by SPUC to the City and the Temporary Easement to be granted by SPUC to DHI, both in exchange for the Access Parcel; and (ii) the provisions of Section 8.1 will survive any termination of this Agreement (including any termination as a result of DHI's default) and Closing, to the maximum extent permitted by any Applicable Law.

## **IX. WARRANTIES AND REPRESENTATIONS**

- 9.1 DHI Warranties. DHI warrants and represents to SPUC that:

- (a) to the best knowledge of Mike Suel, DHI's Land Development Manager, the Due Diligence Information and the ESA Report of Findings made available to SPUC pursuant to Sections 4.1 and 4.2 are true and correct copies, have not been amended or modified, and are in full force and effect and free from default or notice of default;
- (b) no brokerage commission or other compensation is due and unpaid in connection with any lease, tenancy or occupancy of the Access Parcel or any renewal thereof;
- (c) DHI has not received any notice of a violation of any building codes, fire codes, health codes, zoning codes, Environmental Laws, or other laws and regulations affecting the Access Parcel or the use thereof;

- (d) DHI has not received any notice of a condemnation, environmental, zoning or other regulation or proceeding being instituted or planned which would detrimentally affect the use and operation of the Access Parcel for its intended purpose;
- (e) DHI has not received any notice of hearing of a public improvement project from any governmental assessing authority, the costs of which may be assessed against the Access Parcel;
- (f) there are no wells on or serving the Access Parcel (this statement being made pursuant to the disclosure requirements of Minnesota Statutes section 103I.235);
- (g) there are no individual sewage treatment systems on or serving the Access Parcel (this statement being made pursuant to the disclosure requirements of Minnesota Statutes section 115.55);
- (h) DHI does not know of any underground or aboveground storage tanks currently on the Access Parcel, or any underground or aboveground storage tanks formerly on the Access Parcel that had a release for which no corrective action was taken, except as may otherwise be disclosed in the Due Diligence Information or affidavit filed of record (this statement being made pursuant to the disclosure requirements of Minnesota Statutes section 116.48);
- (i) DHI has removed, or will remove prior to Closing, all wells, individual sewage treatment systems, underground or above ground storage tanks, house improvements, personal property, containers of motor oil, paint or solvents, petroleum products, motor vehicle tires and batteries, and all Hazardous Substances from the Access Parcel, including but not limited to any such Hazardous Substances identified in any environmental assessment of the Access Parcel;
- (j) to the best of DHI's knowledge, no methamphetamine production has occurred on the Access Parcel;
- (k) DHI is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all requisite power and authority to carry out its business in Minnesota as conducted, to execute and deliver this Agreement and the documents entered into pursuant hereto, and to carry out its obligations under this Agreement and such documents;
- (l) this Agreement has been duly authorized, executed and delivered on behalf of DHI and constitutes the valid and binding agreement of DHI, enforceable in accordance with its terms;
- (m) the execution, delivery and performance of this Agreement by DHI will not result in a breach or violation of DHI or constitute a default by DHI under any agreement, instrument or order to which DHI is a party or by which DHI is bound;

- (n) DHI is not aware of any action, proceeding or investigation pending or threatened which might materially adversely affect the Access Parcel or the ability of DHI to perform its obligations under this Agreement; and
- (o) the stormwater ponding systems in Lot 1, Block 1, Outlots at La Tour Terrace have been designed in an appropriate size so as to handle the stormwater runoff from the Access Parcel.

9.2 SPUC Warranties. SPUC warrants and represents to DHI that:

- (a) SPUC is a municipal utility commission duly organized, validly existing and in good standing under the laws of the State of Minnesota and has all requisite power and authority to carry on its business as conducted, to execute and deliver this Agreement and the documents entered into pursuant hereto, and to carry out its obligations under this Agreement and such documents;
- (b) this Agreement has been duly authorized, executed and delivered on behalf of SPUC and constitutes the valid and binding agreement of SPUC, enforceable in accordance with its terms;
- (c) the execution, delivery and performance of this Agreement by SPUC will not result in a breach or violation by SPUC or constitute a default by SPUC under any agreement, instrument or order to which SPUC is a party or by which SPUC is bound; and
- (d) SPUC is not aware of any action, proceeding or investigation pending or threatened which might materially adversely affect the ability of SPUC to perform its obligations under this Agreement.

## **X. OPERATIONS PRIOR TO CLOSING**

10.1 Operation. During the period from the execution of this Agreement to Closing, DHI will cause the Access Parcel to be operated in the manner in which it has been operated prior to the execution of this Agreement. DHI will not without SPUC's written consent permit any new leases or contracts or any amendment, modification, termination, surrender, extension or assignment of any of the contracts or any sublease of the Access Parcel or any waiver of DHI's rights under any of the contracts. DHI will keep and comply with all requirements of encumbrances and will not without SPUC's written consent permit any new encumbrance or any amendment, modification or termination of any encumbrance or any waiver of DHI's rights under any encumbrance on the Access Parcel.

10.2 Inspection. During the period from execution of this Agreement to Closing, SPUC and its representatives may enter the Access Parcel to inspect the Access Parcel and perform such inventories, observations, tests and investigations as SPUC may reasonably deem appropriate. SPUC will at SPUC's cost repair any resulting damage to the Access Parcel and will indemnify and hold harmless DHI from any injury or damage to persons or property. Notwithstanding anything in this Agreement to the contrary, this obligation and indemnity survive termination of this Agreement.



## XI. CASUALTY AND CONDEMNATION

11.1 Notice of Damage or Taking. DHI will give SPUC prompt notice of any fire or other casualty occurring between the date of this Agreement and Closing which involves damage to the Access Parcel and of any actual or threatened taking in condemnation affecting the Access Parcel of which DHI has knowledge.

11.2 Option to Terminate. If prior to Closing:

- (a) the Access Parcel sustains damage by fire or other casualty;
- (b) the Access Parcel is taken in condemnation or by transfer in lieu of condemnation;  
or
- (c) condemnation proceedings are commenced against the Access Parcel,

SPUC may terminate its obligations under this Agreement by written notice given to DHI within fifteen (15) days after receipt of the notice referred to in Section 11.1. If so terminated, this Agreement will be void and of no effect and neither party will have any further rights or obligations under this Agreement.

11.3 Affect on Closing. If SPUC is not entitled to or does not timely make the election provided for in Section 11.2, this Agreement and the obligations of DHI and SPUC under this Agreement will remain in full force and effect except that:

- (a) SPUC will accept the Access Parcel with such damage or condemnation; and
- (b) DHI will at Closing, pay over to SPUC any insurance proceeds and condemnation awards received prior to Closing which have not been applied to repairs and restoration, and assign to SPUC DHI's interest in all unpaid insurance proceeds and condemnation awards.

## XII. DEFAULTS AND REMEDIES

12.1 SPUC's Default and DHI's Remedies. If SPUC defaults under this Agreement, and if SPUC fails to cure such default within ten (10) days after written notice of such default by DHI to SPUC, then DHI may, as DHI's sole and exclusive remedy, terminate this Agreement pursuant to Minnesota Statutes section 559.21, as amended from time to time.

12.2 DHI's Defaults and SPUC's Remedies. DHI shall be in default under this Agreement if DHI fails to meet, comply with, or perform any covenant, agreement, or obligation within the time limits and in the manner required in this Agreement which is not cured within ten (10) days after written notice of such default by SPUC to DHI. If DHI is in default under this Agreement, SPUC may, as SPUC's sole and exclusive remedies: (a) waive the contractual obligations of DHI and proceed to Closing; or (b) terminate this Agreement by written notice delivered to DHI on or before the Closing.

- 12.3 Attorneys' Fees. If either party to this Agreement defaults in the performance required hereunder, and the non-defaulting party employs an attorney to enforce the terms hereof, such non-defaulting party shall be entitled to reasonable attorneys' fees from the defaulting party if such non-defaulting party substantially prevails in any litigation to enforce this Agreement.
- 12.4 Limitation on Damages. In no event shall either party be liable to the other party for (and each party hereby waives all rights to) any speculative, consequential, or punitive damages for any breach of or default under this Agreement or under any other provision of this Agreement.

### XIII. NOTICE

- 13.1 Any notice authorized, required or permitted to be given under this Agreement must be in writing and shall be deemed to have been given: (a) when delivered in person; (b) when deposited with Federal Express, UPS or other nationally recognized overnight courier service; or (c) when deposited in the United States mail, postage prepaid, certified mail or registered mail, return receipt requested, and in each case properly addressed to the parties to be notified at the following addresses:

If to SPUC:

Shakopee Public Utilities Commission  
 255 Sarazin Street  
 Shakopee, MN 55379  
 Attention: Joseph D. Adams  
 Telephone: (952) 445-1988  
 Facsimile: (952) 445-7767  
 Email: jadams@shakopeeutilities.com

with copies to:

Shakopee Public Utilities Commission  
 255 Sarazin Street  
 Shakopee, MN 55379  
 Attention: Lon Schemel  
 Telephone: (952) 445-1988  
 Facsimile: (952) 445-7767  
 Email: lschemel@shakopeeutilities.com

McGrann Shea Carnival Straughn & Lamb, Chartered  
 800 Nicollet Mail, Suite 2600  
 Minneapolis, MN 55402  
 Attention: Carla J. Pedersen  
 Telephone: (612) 338-2525  
 Facsimile: (612) 339-2386  
 Email: cjp@mcgrannshea.com

If to DHI:

D.R. Horton, Inc. - Minnesota  
 20860 Kenbridge Court, Suite 100  
 Lakeville, MN 55044

Attention: James R. Slaikeu, Vice President  
Telephone: (952) 985-7403  
Facsimile: (952) 985-7400  
Email: jrslaikeu@drhorton.com

with copies to:

D.R. Horton, Inc.  
9555 South Kingston Ct.  
Englewood, CO 80112  
Attention: Doug Brown, North Region President  
Telephone: (303) 488-0061  
Email: Dbrown@drhorton.com

D.R. Horton, Inc.  
9555 South Kingston Ct.  
Englewood, CO 80112  
Attention: Robert Coltin, Regional Counsel  
Telephone: (720) 488-2092  
Email: rcoltin@drhorton.com

Stinson LLP  
50 South Sixth Street, Suite 2600  
Minneapolis, MN 55402  
Attention: John C. Kuehn  
Telephone: (612) 335-1717  
Facsimile: (612) 335-1657  
Email: john.kuehn@stinson.com

- 13.2 Any party may, from time to time at any time change its address by giving ten (10) days' written notice to the other party of such change of address in the manner set forth above.

#### **XIV. GENERAL**

14.1 Assignment.

- (a) SPUC shall not have the right to sell, assign, or transfer this Agreement without DHI's prior written consent, which consent may be granted or withheld by DHI in DHI's sole and absolute discretion, and any such purported assignment by SPUC without DHI's consent shall constitute a default by SPUC under this Agreement. Any assignment by SPUC shall not relieve SPUC of its obligations contained in this Agreement and SPUC shall remain personally liable for the same.
- (b) DHI shall not have the right to sell, assign, or transfer this Agreement without SPUC's prior written consent, which consent may be granted or withheld by SPUC in SPUC's sole and absolute discretion, and any such purported assignment by DHI without SPUC's consent shall constitute a default by DHI under this Agreement. Any assignment by DHI shall not relieve DHI of its obligations contained in this Agreement and DHI shall remain personally liable for the same.

- (c) The terms, provisions, warranties, representations, covenants, and agreements contained in this Agreement shall apply to, be binding upon, and inure to the benefit of, the parties hereto and their respective legal representatives, successors, and assigns.
- 14.2 Time is of the essence in the performance of this Agreement. If the time for performance of any obligations hereunder falls on a day that is not a Business Day, the time for performance of such obligations shall be extended to the next day which is a Business Day. "Business Day(s)" means any day which is not a Saturday, Sunday or Minnesota state or federal holiday.
- 14.3 The parties will cooperate to facilitate the conveyance of the Access Parcel to SPUC under the terms and conditions herein set forth.
- 14.4 The paragraph headings used in this Agreement are for convenience purposes only, and shall not be used in the interpretation of this Agreement.
- 14.5 All exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.
- 14.6 Failure of DHI or SPUC to insist in any one or more instances upon the performance of any of the covenants, agreements, and/or conditions of this Agreement, or to exercise any right or privilege herein conferred shall not be construed as a waiver of any such covenant or condition.
- 14.7 Nothing contained herein is intended to create, nor shall it ever be construed to make, DHI and SPUC partners or joint venturers.
- 14.8 The term "Execution Date," "date of this Agreement," or "date hereof," as used herein, shall mean the later of the following dates: (1) the date of DHI's signature; or (2) the date of SPUC's signature; or (3) the date of the Corporate Approval of DHI.
- 14.9 Broker Commissions. SPUC and DHI each represents that no salesperson, broker, or agent has been retained by it in connection with this transaction. SPUC and DHI each indemnifies the other from any real estate or other sales commissions arising out of any claim of any salesperson, broker or agent acting or claiming to have acted on behalf of the indemnifying party in connection with this transaction.
- 14.10 NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, NEITHER THIS AGREEMENT NOR ANY AMENDMENT HERETO SHALL BE A VALID AND ENFORCEABLE OBLIGATION OF DHI UNLESS EXECUTED BY ANY ONE OF DONALD R. HORTON, DAVID AULD, MICHAEL J. MURRAY, R. DOUGLAS BROWN or BILL W. WHEAT, EACH AN "AUTHORIZED OFFICER" OF DHI, AND IN THE CASE OF THIS AGREEMENT OR ANY AMENDMENT HERETO, THE EXECUTION BY SUCH OFFICER OCCURS WITHIN THIRTY (30) DAYS OF THE EXECUTION OF THIS AGREEMENT OR AMENDMENT BY DHI AND SPUC'S REPRESENTATIVE. Such approval by an Authorized Officer is referred to as "Corporate Approval".

- 14.11 This Agreement may be executed in any number of identical counterparts that, taken together, shall constitute collectively one agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Additionally, (i) the signature pages taken from separate individually executed counterparts of this Agreement may be combined to form multiple fully-executed counterparts; and (ii) a facsimile signature or an electronically scanned signature shall be deemed to be an original signature for all purposes. All executed counterparts of this Agreement shall be deemed to be originals, but all such counterparts, when taken together, shall constitute one and the same agreement.
- 14.12 Entire Agreement. This Agreement contains the entire agreement between the parties relating to the Access Parcel, and neither party shall be bound by any verbal statement or agreement made heretofore. Except as otherwise expressly set forth in this Section, this Agreement may only be amended, modified, or changed by a traditional written document properly executed by DHI and SPUC. Such amendment may be transmitted by e-mail, facsimile, or other method permitted by the provisions for giving notice in this Agreement.
- 14.13 Survival. Except as may otherwise be expressly provided in this Agreement, all covenants, agreements, obligations and undertakings made by DHI and SPUC in or pursuant to this Agreement will survive Closing, for a period of three (3) years after Closing, whether or not so expressed in the immediate context of any such covenant, agreement, obligation or undertaking.
- 14.14 Construction. This Agreement will be construed and enforced in accordance with the laws of the State of Minnesota. Time is of the essence of this Agreement. DHI and SPUC acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof DHI and SPUC have equal bargaining power, and intend the plain meaning of the provisions herein. In the event of an ambiguity in or dispute regarding the interpretation of this Agreement, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the drafter.

*[Remainder of this page is intentionally left blank]*

**IN WITNESS OF** this Agreement, DHI and SPUC have duly executed it as of the date first shown above.

**DHI:**

**D.R. HORTON, INC.-MINNESOTA,**  
a Delaware corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**SPUC:**

**SHAKOPEE PUBLIC UTILITIES COMMISSION,**  
a Minnesota municipal utility commission

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

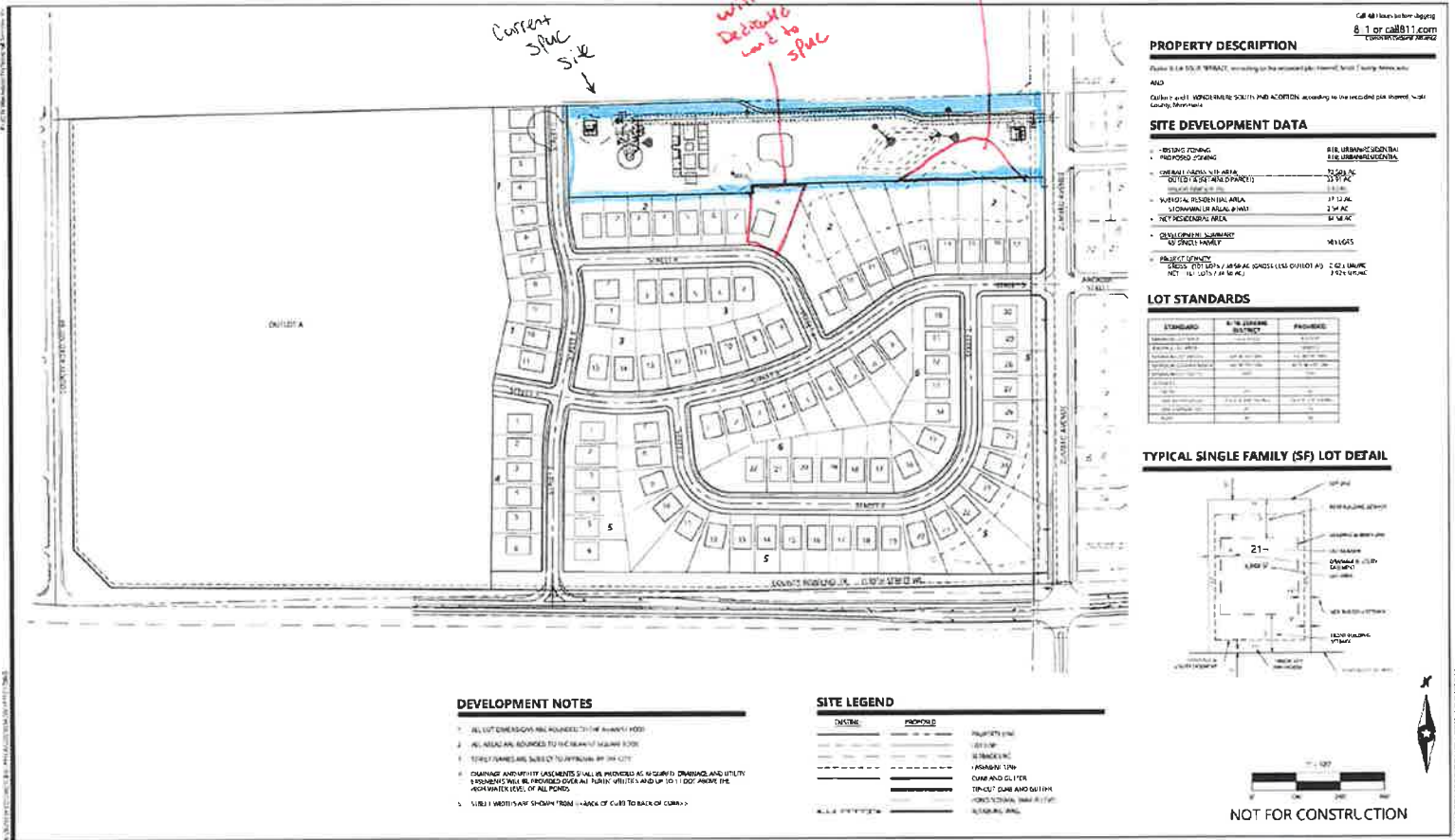
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**CORPORATE APPROVAL — HORTON:**

**D.R. Horton, Inc.-Minnesota**  
(a Delaware corporation)

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

*[Remainder of this page is intentionally left blank]*



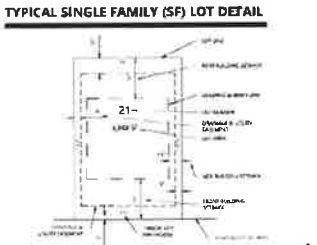
**PROPERTY DESCRIPTION**  
 Plats 2 & 3 of 15th STREET, according to the recorded plat thereof, located in the County of Hennepin, Minnesota.  
 Call 48 hours before bidding  
 811 or call 811.com  
 1-800-480-4800

**SITE DEVELOPMENT DATA**

PROPOSED ZONING	R-16 (RESIDENTIAL SINGLE-FAMILY)
OVERALL LOTS AREA	75,500 SQ. FT. (2.73 AC)
OVERALL IMPROVEMENTS AREA	11,111 SQ. FT. (0.255 AC)
NET RESIDENTIAL AREA	17,111 SQ. FT. (0.393 AC)
DEVELOPMENT DENSITY	40 UNITS PER ACRE
PROJECT DENSITY	20 UNITS PER ACRE (LESS OFFSET AS PER CITY CODE)

**LOT STANDARDS**

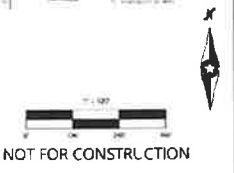
STANDARD	R-16 ZONING DISTRICT	PROPOSED
MINIMUM LOT AREA	10,000 SQ. FT.	10,000 SQ. FT.
MINIMUM FRONT YARD SETBACK	10 FEET	10 FEET
MINIMUM SIDE YARD SETBACK	5 FEET	5 FEET
MINIMUM REAR YARD SETBACK	5 FEET	5 FEET
MINIMUM FRONT LOT WIDTH	30 FEET	30 FEET
MINIMUM REAR LOT WIDTH	20 FEET	20 FEET
MINIMUM SIDE LOT WIDTH	10 FEET	10 FEET
MINIMUM FRONT LOT DEPTH	30 FEET	30 FEET
MINIMUM REAR LOT DEPTH	20 FEET	20 FEET
MINIMUM SIDE LOT DEPTH	10 FEET	10 FEET



- DEVELOPMENT NOTES**
- ALL LOT DIMENSIONS ARE BASED ON THE ADJACENT CORNER.
  - ALL AREAS ARE ASSUMED TO BE GRADE AND LEVEL.
  - THESE DIMENSIONS ARE SUBJECT TO APPROVAL BY THE CITY.
  - DRAINAGE AND UTILITY INSTALLATIONS SHALL BE PROVIDED AS REQUIRED. DRAINAGE AND UTILITY PROVISIONS SHALL BE PROVIDED OVER ALL TRUNK UTILITIES AND UP TO 100' ABOVE THE HIGH WATER LEVEL OF ALL PONDS.
  - UTILITIES SHALL BE SHOWN FROM THE BACK OF CURB TO BACK OF CURB.

**SITE LEGEND**

SYMBOL	DESCRIPTION
(Solid line)	PROPERTY LINE
(Dashed line)	LOT LINE
(Dotted line)	SETBACK LINE
(Dash-dot line)	SEWER LINE
(Long-dash line)	CURB AND GUTTER
(Thick solid line)	TYPICAL CURB AND GUTTER
(Thin solid line)	EXISTING DRIVE
(Thin solid line)	EXISTING ALLEY



DATE	3/10/2021
DRAWN BY	
CHECKED BY	
APPROVED BY	

PREPARED FOR  
**DR HORTON, INC. - MINNESOTA**  
 10001 WINDERMERE LANE, SUITE 100  
 WINDERMERE, MN 55120

**WINDERMERE SOUTH 5TH ADDITION**  
 SHAGOPEE, MN

**Westwood**  
 1200 Westwood Drive, Suite 100  
 Minneapolis, MN 55425  
 Phone: (612) 339-1100  
 Fax: (612) 339-1101  
 Email: info@westwoodmn.com

OVERALL PRELIMINARY PLAT  
 PROJECT NUMBER: 0029534.00  
 SHEET NUMBER: 3 OF 38  
 DATE: 04/02/21

Depiction of Proposed Plat of Windermere South 5th Addition

EXHIBIT A

WINDERMERE SOUTH 5TH ADDITION



# Drainage Easement

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## DRAINAGE EASEMENT AGREEMENT

**THIS DRAINAGE EASEMENT AGREEMENT** (this “**Agreement**”) is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Shakopee Public Utilities Commission, a Minnesota municipal utility commission (“**Grantor**”), and the City of Shakopee, a Minnesota municipal corporation (“**Grantee**”).

### Recitals

- A. Grantor is the fee owner of the real property located in the City of Shakopee, County of Scott, State of Minnesota (the “**Property**”).
- B. Grantor desires to grant to Grantee, and Grantee desires to accept from Grantor, a non-exclusive easement, according to the terms and conditions contained herein.

### Terms of Easement

- 1. Grant of Easement. Grantor hereby grants and conveys to Grantee a non-exclusive permanent easement (“**Easement**”) for the uses and purposes and subject to the terms and conditions of this Agreement on, over, under, and across the Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the “**Easement Area**”).
- 2. Uses and Purposes. The Easement shall be for drainage, ponding, and grading purposes. Grantor hereby conveys all grasses, shrubs, trees, and natural growth on the Easement Area. Grantee shall have the right to use and remove all earthen materials, structures, improvements, and obstructions that lie within the boundaries of the Easement Area, including the right of clearing the Easement Area to allow for the use of the land as stated herein. The Easement includes the right of Grantee, its contractors, agents, and employees to enter the Easement Area at all reasonable times for the purpose of locating, constructing, reconstructing, operating, maintaining, inspecting, altering, and repairing within the Easement Area facilities for drainage, ponding, and grading purposes or improvements of any type that are not inconsistent with drainage, ponding, and grading purposes. The Easement also includes the right to cut, trim, or remove from the Easement Area trees, shrubs, or other vegetation as in Grantee’s judgement unreasonably interfere with the Easement or facilities of the Grantee, its successors or assigns.

3. Duration of Easement. The Easement shall be perpetual, shall run with the land, shall be binding upon Grantor, its successors and assigns, and shall be for the benefit of Grantee, its successors and assigns.
4. Warranty of Title. Grantor warrants it is the owner of the Property and has the right, title and capacity to convey the Easement to Grantee.
5. Binding Effect. This Agreement contains the entire agreement between the parties related to the subject matter hereof. It is the intention of the parties hereto that Grantor hereby grants the Easement herein specified without divesting itself of the right to use and enjoy the Property, subject only to the rights of Grantee to use the same for the purposes herein expressed.

*[Remainder of this page is intentionally left blank.]*

**GRANTOR:**

**SHAKOPEE PUBLIC UTILITIES COMMISSION,**  
a Minnesota municipal utility commission

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of Shakopee Public Utilities Commission, a Minnesota municipal utility commission, on behalf of the commission.

\_\_\_\_\_  
Notary Public

NOTARY STAMP OR SEAL

**GRANTEE:**

**CITY OF SHAKOPEE,**  
a Minnesota municipal corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2021, by  
\_\_\_\_\_, the \_\_\_\_\_ of the City of Shakopee.

\_\_\_\_\_  
Notary Public

NOTARY STAMP OR SEAL

THIS INSTRUMENT DRAFTED BY:  
Stinson LLP (JCK, mcv)  
50 South Sixth Street  
Suite 2600  
Minneapolis, MN 55402

## EXHIBIT A

### Legal Description of the Property

A Drainage and Utility Easement lying over, under and across that part of Lot 1, Block 1, LA TOUR TERRACE, according to the recorded plat thereof, Scott County, Minnesota, described as follows:

Commencing at the southeast corner of said Lot 1; thence South 88 degrees 03 minutes 51 seconds West, assumed bearing along the south line of said Lot 1, a distance of 38.13 feet; thence South 88 degrees 38 minutes 41 seconds West, along said south line a distance of 55.89 feet to the point of beginning; thence South 88 degrees 38 minutes 41 seconds West, along said south line a distance of 426.32 feet; thence North 09 degrees 16 minutes 42 seconds East, a distance of 49.47 feet; thence North 36 degrees 46 minutes 56 seconds East, a distance of 115.00 feet; thence North 62 degrees 15 minutes 25 seconds East, a distance of 31.54 feet; thence South 89 degrees 20 minutes 09 seconds East, a distance of 122.10 feet; thence South 45 degrees 19 minutes 19 seconds East, a distance of 118.51 feet; thence South 62 degrees 09 minutes 25 seconds East, a distance of 130.15 feet to the point of beginning.

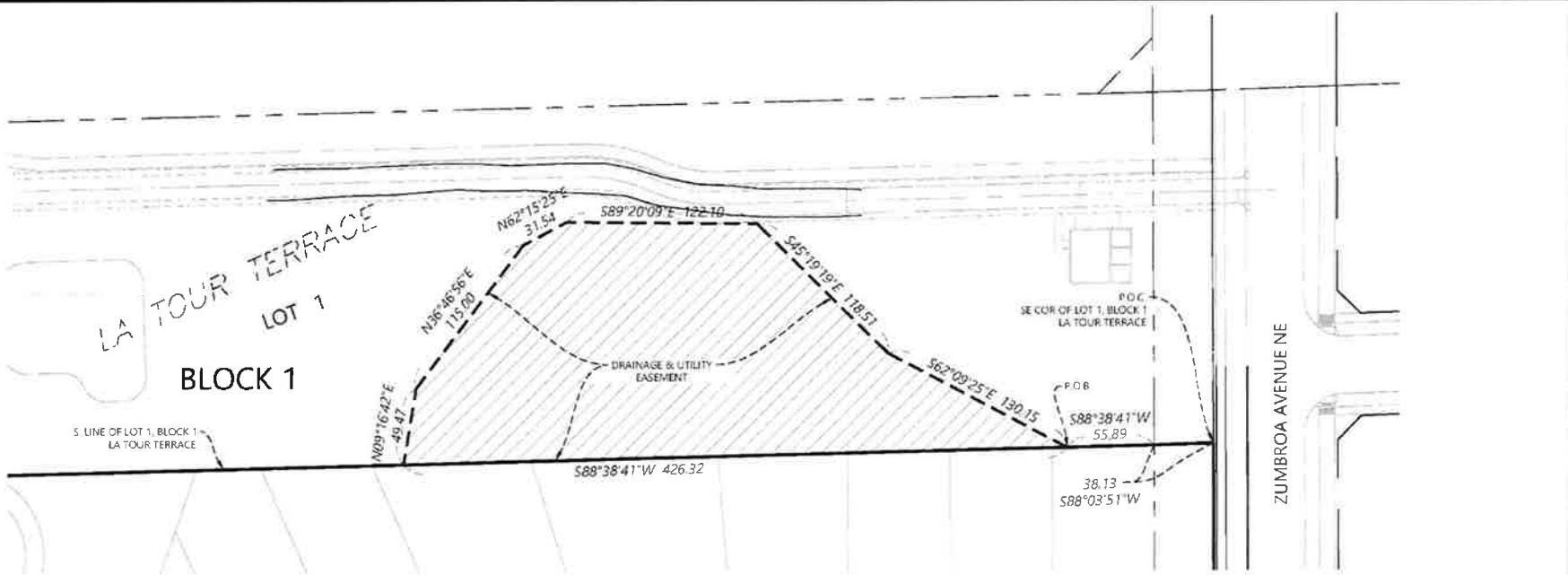
Area: 41,774 sf or 0.96 ac

**Drainage Easement**

**EXHIBIT B**

**Depiction of the Easement Area**

[See attached]

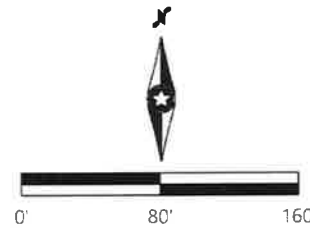


**LEGAL DESCRIPTION**

A Drainage and Utility Easement lying over, under and across that part of Lot 1, Block 1, LA TOUR TERRACE, according to the recorded plat thereof, Scott County, Minnesota, described as follows:

Commencing at the southeast corner of said Lot 1; thence South 88 degrees 03 minutes 51 seconds West, assumed bearing along the south line of said Lot 1, a distance of 38.13 feet; thence South 88 degrees 38 minutes 41 seconds West, along said south line a distance of 55.89 feet to the point of beginning; thence South 88 degrees 38 minutes 41 seconds West, along said south line a distance of 426.32 feet; thence North 09 degrees 16 minutes 42 seconds East, a distance of 49.47 feet; thence North 36 degrees 46 minutes 56 seconds East, a distance of 115.00 feet; thence North 62 degrees 15 minutes 25 seconds East, a distance of 31.54 feet; thence South 89 degrees 20 minutes 09 seconds East, a distance of 122.10 feet; thence South 45 degrees 19 minutes 19 seconds East, a distance of 118.51 feet; thence South 62 degrees 09 minutes 25 seconds East, a distance of 130.15 feet to the point of beginning.

Area: 41,774 sf or 0.96 ac



DESIGNED	
CHECKED	MM
DRAWN	MM
LITLED CHECK	
FIELDWORK DATE	

**WINDERMERE SOUTH 5TH  
ADDITION**  
SHAKOPEE, MINNESOTA

**Westwood**

Phone (852) 937-5150 12701 Whitewater Drive, Suite 4300  
 Fax (852) 937-5822 Minnetonka, MN 55343  
 Toll Free (888) 937-5150 [www.westwoodps.com](http://www.westwoodps.com)  
 Westwood Professional Services, Inc.

**DRAINAGE & UTILITY  
EASEMENT**

PROJECT NUMBER: 00295.34.00

SHEET NUMBER:  
1 OF 1  
DATE: 08/05/2021

WINDERMERE SOUTH 5TH ADDITION

B-7

CORE/2008719.0559/167761710.5

## EXHIBIT C

### Temporary Easement

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

#### TEMPORARY EASEMENT AGREEMENT

**THIS TEMPORARY EASEMENT AGREEMENT** (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Shakopee Public Utilities Commission, a Minnesota municipal utility commission ("**Grantor**"), and D.R. Horton, Inc. — Minnesota, a Delaware corporation ("**Grantee**").

#### Recitals

- A. Grantor is the fee owner of the real property located in the City of Shakopee, County of Scott, State of Minnesota (the "**Property**").
- B. Grantor desires to grant to Grantee, and Grantee desires to accept from Grantor, a non-exclusive temporary easement, according to the terms and conditions contained herein.

#### Terms of Easement

1. Grant of Easement. Grantor hereby grants and conveys to Grantee a non-exclusive temporary easement ("**Easement**") for the uses and purposes and subject to the terms and conditions of this Agreement on, over, under, and across the Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "**Easement Area**").
2. Uses and Purposes. The Easement shall be for drainage, ponding, and grading purposes. Grantor hereby conveys all grasses, shrubs, trees, and natural growth on the Easement Area. Grantee shall have the right to use and remove all earthen materials, structures, improvements, and obstructions that lie within the boundaries of the Easement Area, including the right of clearing the Easement Area to allow for the use of the land as stated herein. The Easement includes the right of Grantee, its contractors, agents, and employees to enter the Easement Area at all reasonable times for the purpose of locating, constructing, reconstructing, operating, maintaining, inspecting, altering, and repairing within the Easement Area facilities for drainage, ponding, and grading purposes or improvements of



any type that are not inconsistent with drainage, ponding, and grading purposes. The Easement also includes the right to cut, trim, or remove from the Easement Area trees, shrubs, or other vegetation as in Grantee's judgement unreasonably interfere with the Easement or facilities of the Grantee, its successors or assigns.

3. Duration of Easement. The Easement shall be temporary and terminate after DHI has concluded any grading or other work permitted under this Temporary Easement and required by DHI. Upon termination, DHI and SPUC will execute and DHI will record a termination of this Temporary Easement.
4. Warranty of Title. Grantor warrants it is the owner of the Property and has the right, title and capacity to convey to Grantee the Easement herein.
5. Binding Effect. This Agreement contains the entire agreement between the parties related to the subject matter hereof. It is the intention of the parties hereto that Grantor hereby grants the Easement herein specified without divesting itself of the right to use and enjoy the Property, subject only to the rights of Grantee to use the same for the purposes herein expressed.

*[Remainder of this page is intentionally left blank.]*

**GRANTOR:**

**SHAKOPEE PUBLIC UTILITIES COMMISSION,**  
a Minnesota municipal utility commission

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of Shakopee Public Utilities Commission, a Minnesota municipal utility commission, on behalf of the commission.

\_\_\_\_\_  
Notary Public

NOTARY STAMP OR SEAL

**GRANTEE:**

**D.R. HORTON, INC. – MINNESOTA,**  
a Delaware corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of D.R. Horton, Inc. – Minnesota, a Delaware corporation.

\_\_\_\_\_  
Notary Public

NOTARY STAMP OR SEAL

THIS INSTRUMENT DRAFTED BY:  
Stinson LLP (JCK, mcv)  
50 South Sixth Street  
Suite 2600  
Minneapolis, MN 55402

## **Temporary Easement**

### **EXHIBIT A**

#### **Legal Description of the Property**

A Temporary Grading & Construction Easement lying over, under and across that part of Lot 1, Block 1, LA TOUR TERRACE, according to the recorded plat thereof, Scott County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1; thence South 88 degrees 03 minutes 51 seconds West, assumed bearing along the south line of said Lot 1, a distance of 38.13 feet; thence South 88 degrees 38 minutes 41 seconds West, along said south line, a distance of 518.81 feet; thence North 34 degrees 37 minutes 55 seconds East, a distance of 198.81 feet; thence South 89 degrees 34 minutes 58 seconds East, a distance of 127.18 feet; thence South 73 degrees 37 minutes 17 seconds East, a distance of 72.91 feet; thence South 62 degrees 28 minutes 31 seconds East, a distance of 278.14 feet to the point of beginning.

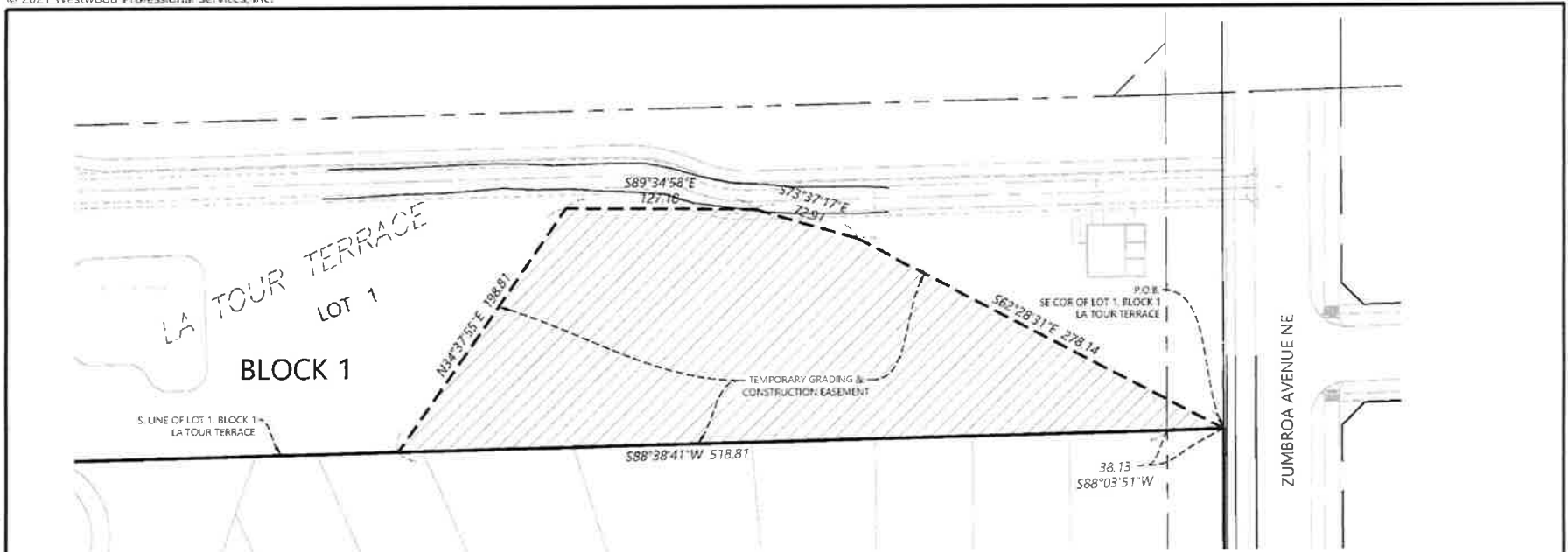
Area: 56,168 sf or 1.29 ac

**Temporary Easement**

**EXHIBIT B**

**Depiction of the Easement Area**

[See attached]

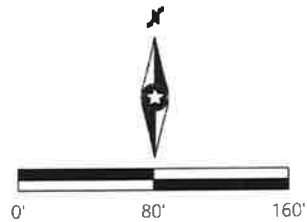


**LEGAL DESCRIPTION**

A Temporary Grading & Construction Easement lying over, under and across that part of Lot 1, Block 1, LA TOUR TERRACE, according to the recorded plat thereof, Scott County, Minnesota, described as follows:

Beginning at the southeast corner of said Lot 1, thence South 88 degrees 03 minutes 51 seconds West, assumed bearing along the south line of said Lot 1, a distance of 38.13 feet; thence South 88 degrees 38 minutes 41 seconds West, along said south line, a distance of 518.81 feet; thence North 34 degrees 37 minutes 55 seconds East, a distance of 198.81 feet; thence South 89 degrees 34 minutes 58 seconds East, a distance of 127.18 feet; thence South 73 degrees 37 minutes 17 seconds East, a distance of 72.91 feet; thence South 62 degrees 28 minutes 31 seconds East, a distance of 278.14 feet to the point of beginning.

Area: 56,168 sf or 1.29 ac



N:\0029534\01\DWG\SURVEY\00295345-ESF03.DWG

WINDERMERE SOUTH 5TH ADDITION

DESIGNED	
CHECKED	MMW
DRAWN	MMW
FIELD CHECK	
SELL & WINTER DATE	

**WINDERMERE SOUTH 5TH ADDITION**  
SHAKOPEE, MINNESOTA

**Westwood**

Phone (952) 937-5150 12701 Whitewater Drive, Suite 3000  
 Fax (852) 637-5822 Minnetonka, MN 55343  
 Toll Free (888) 637-5150 westwoodps.com  
 Westwood Professional Services, Inc.

**TEMPORARY GRADING & CONSTRUCTION EASEMENT**

PROJECT NUMBER: 0029534.00

SHEET NUMBER:  
1 OF 1  
DATE: 08/05/2021

CORI

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SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

**THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT** (this "**Agreement**") is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Shakopee Public Utilities Commission, a Minnesota municipal utility commission ("**Grantor**"), and D.R. Horton, Inc. — Minnesota, a Delaware corporation ("**Grantee**").

### Recitals

- A. Grantor is the fee owner of the real property located in the City of Shakopee, County of Scott, State of Minnesota (the "**Property**").
- B. Grantor desires to grant to Grantee, and Grantee desires to accept from Grantor, a non-exclusive temporary easement, according to the terms and conditions contained herein.

### Terms of Easement

1. Grant of Easement. Grantor hereby grants and conveys to Grantee a non-exclusive temporary easement ("**Easement**") for the uses and purposes and subject to the terms and conditions of this Agreement on, over, under, and across the Property legally described on the attached Exhibit A and depicted on the attached Exhibit B (the "**Easement Area**").
2. Uses and Purposes. The Easement shall be for grading and construction purposes. Grantor hereby conveys all grasses, shrubs, trees, and natural growth on the Easement Area. Grantee shall have the right to use and remove all earthen materials, structures, improvements, and obstructions that lie within the boundaries of the Easement Area, including the right of clearing the Easement Area to allow for the use of the land as stated herein. The Easement includes the right of Grantee, its contractors, agents, and employees to enter the Easement Area at all reasonable times for the purpose of locating, constructing,

reconstructing, operating, maintaining, inspecting, altering, and repairing within the Easement Area facilities for grading and construction purposes or improvements of any type that are not inconsistent with grading and construction purposes. The Easement also includes the right to cut, trim, or remove from the Easement Area trees, shrubs, or other vegetation as in Grantee's judgement unreasonably interfere with the Easement or facilities of the Grantee, its successors or assigns.

3. Duration of Easement. The Easement shall be temporary and terminate after DHI has concluded any grading or other work permitted under this Temporary Easement and required by DHI. Upon termination, DHI and SPUC will execute and DHI will record a termination of this Temporary Construction Easement.
4. Warranty of Title. Grantor warrants it is the owner of the Property and has the right, title and capacity to convey to Grantee the Easement herein.
5. Binding Effect. This Agreement contains the entire agreement between the parties related to the subject matter hereof. It is the intention of the parties hereto that Grantor hereby grants the Easement herein specified without divesting itself of the right to use and enjoy the Property, subject only to the rights of Grantee to use the same for the purposes herein expressed.

*[Remainder of this page is intentionally left blank.]*



**GRANTOR:**

**SHAKOPEE PUBLIC UTILITIES COMMISSION,**  
a Minnesota municipal utility commission

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on the \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of Shakopee Public Utilities Commission, a Minnesota municipal utility commission, on behalf of the commission.

\_\_\_\_\_  
Notary Public

NOTARY STAMP OR SEAL



## **Temporary Construction Easement**

### **EXHIBIT A**

#### **Legal Description of the Property**

A Temporary Grading & Construction Easement lying over, under and across that part of Lot 1, Block 1, LA TOUR TERRACE, according to the recorded plat thereof, Scott County, Minnesota, described as follows:

Beginning at the northwest corner of said Lot 1; thence North 88 degrees 38 minutes 27 seconds East, assumed bearing along the north line of said Lot 1, a distance of 45.46 feet; thence South 00 degrees 02 minutes 10 seconds West, a distance of 135.64 feet; thence South 17 degrees 03 minutes 21 seconds East, a distance of 73.37 feet; thence South 70 degrees 17 minutes 24 seconds East, a distance of 121.75 feet to the south line of said Lot 1; thence South 88 degrees 38 minutes 27 seconds West, along said south line a distance of 175.62 feet to the southwest corner of said Lot 1; thence North 01 degree 21 minutes 31 seconds West, along the west line of said Lot 1, a distance of 250.00 feet to the point of beginning.

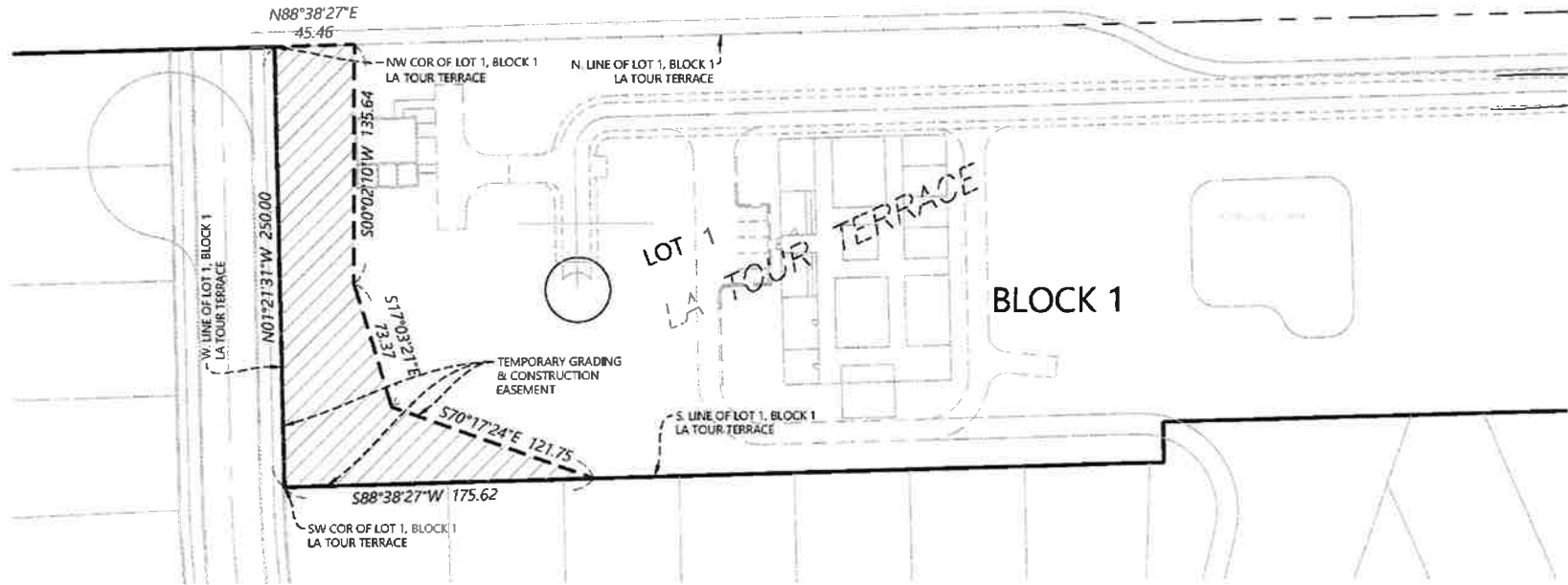
Area: 14,820 sf or 0.34 ac

**Temporary Construction Easement**

**EXHIBIT B**

**Depiction of the Easement Area**

[See attached]

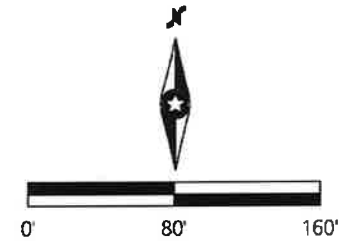


**LEGAL DESCRIPTION**

A Temporary Grading & Construction Easement lying over, under and across that part of Lot 1, Block 1, LA TOUR TERRACE, according to the recorded plat thereof, Scott County, Minnesota, described as follows:

Beginning at the northwest corner of said Lot 1; thence North 88 degrees 38 minutes 27 seconds East, assumed bearing along the north line of said Lot 1, a distance of 45.46 feet; thence South 00 degrees 02 minutes 10 seconds West, a distance of 135.64 feet; thence South 17 degrees 03 minutes 21 seconds East, a distance of 73.37 feet; thence South 70 degrees 17 minutes 24 seconds East, a distance of 121.75 feet to the south line of said Lot 1; thence South 88 degrees 38 minutes 27 seconds West, along said south line a distance of 175.62 feet to the southwest corner of said Lot 1; thence North 01 degree 21 minutes 31 seconds West, along the west line of said Lot 1, a distance of 250.00 feet to the point of beginning.

Area: 14,820 sf or 0.34 ac



N:\0029534.00\DWG\SURVEY\0029534S-ESF04.DWG

WINDERMERE SOUTH 5TH ADDITION

DESIGNED:	
CHECKED:	SEW
DRAWN:	GRM
FIELD CREW:	
FIELD WORK DATE:	

**WINDERMERE SOUTH 5TH  
ADDITION**  
SHAKOPEE, MINNESOTA

**Westwood**

Phone (952) 937-5150 12701 Whitewater Drive, Suite #300  
 Fax (952) 937-5022 Minneapolis, MN 55543  
 TollFree (888) 937-5150 [www.westwoodps.com](http://www.westwoodps.com)  
 Westwood Professional Services, Inc.

**TEMPORARY GRADING &  
CONSTRUCTION EASEMENT**

PROJECT NUMBER: 0029534.00

SHEET NUMBER:  
1  
OF  
1  
DATE: 08/05/2021

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PO Box 470 • 255 Sarazin Street  
Shakopee, Minnesota 55379  
Main 952.445-1988 • Fax 952.445-7767  
www.shakopeeutilities.com

TO: Greg Drent, General Manager *GD*  
FROM: Joseph D. Adams, Planning & Engineering Director *J Adams*  
SUBJECT: MMPA EV Charger Project License Agreement  
DATE: September 16, 2021

#### ISSUE

The attached license agreement is being submitted for Commission approval.

#### BACKGROUND

MMPA is purchasing EV charging stations and installing one in each member city, including Shakopee. The location of the Shakopee MMPA charging station was previously determined to be at the customer parking lot at the SPU Service Center.

#### DISCUSSION

The Project is beginning soon and MMPA is requesting that the attached license agreement be executed before their contractor's work commences. Staff has reviewed the terms of the agreement and forwarded the proposed agreement to SPU's attorney for legal review, but does not anticipate there will be any major issues.

SPU is extending power out to the charging station location in front of the service center entrance to prepare for the unit's installation by MMPA's contractor.

#### REQUESTED ACTION

Staff is requesting the Commission approve the licensing agreement subject to attorney review and authorize its execution by the General Manager.

## **LICENSE AGREEMENT** **(MMPA EV CHARGER PROJECT)**

This License Agreement (“Agreement”) is made effective \_\_\_\_\_, 2021 (the “Effective Date”), by and between Minnesota Municipal Power Agency (“MMPA”), and the Shakopee Public Utilities Commission (“SPU”). MMPA and SPU are each sometimes referred to in this Agreement as a “Party” and are collectively referred to as the “Parties.”

### **RECITALS:**

WHEREAS, MMPA is a municipal power agency, formed pursuant to Minn. Stat. § 453.01- 453.62, as amended; and

WHEREAS, SPU is a member of MMPA and a Minnesota municipal utilities commission under the laws of the State of Minnesota; and

WHEREAS, MMPA is developing a public electric vehicle charger project, known as the “MMPA EV Charger Project,” involving the installation of electric vehicle chargers in its member cities; and

WHEREAS, SPU is the owner of certain real property described on Exhibit A attached hereto (the “Property”); and

WHEREAS, SPU has selected a location on the Property for the location of an electric vehicle charger for use by the public; and

WHEREAS, SPU has agreed with MMPA to grant a license to MMPA to construct, operate, maintain, repair and replace a Charger on the Property, subject to the following terms and conditions.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Licenses.** SPU hereby grants and conveys to MMPA the following licenses “(the “Licenses”) over and under the license areas (the “License Areas”) depicted on Exhibit B attached hereto:

- 1.1. **EV Charger License:** A license (the “EV Charger License”) for the purpose of installing, operating, maintaining, repairing, and replacing the EV Charger Facilities described below upon, over, under and across that portion of the Property depicted on Exhibit B attached hereto as “Charger License Area” (the “Charger License Area”). The initial charger facilities will consist of a 73.83-inch tall pedestal with 20-foot cables, a concrete

pad, electrical connection facilities, and other related facilities (collectively, together with any replacements, the "EV Charger Facilities"). The EV Charger Facilities will be placed in the Charger License Area to allow the EV Charger Facilities to be utilized by electric cars parked within two parking spaces designated exclusively for such use (the "EV Parking Spaces").

- 1.2. Utility License: A non-exclusive License (the "Utility License") for utility purposes (including the provision of electrical power to the EV Charger Facilities) over and across that portion of the Property depicted on Exhibit B as "Utility License Area" (the "Utility License Area").
- 1.3. Access. A license for the use of MMPA and its Permittees (as defined below) for the passage and parking of vehicles over and across the parking and driveway areas of the Property, as the same may from time to time be constructed and maintained for such use (the "Driveways"), for access to the EV Parking Spaces from any public or private road, together with the right to use the parking spaces designated for use of the EV Charger Facilities. SPU also grants to MMPA the use of such additional portions of the Property for access to the EV Charger Facilities, as may be reasonably necessary to construct, maintain, monitor, repair, and/or remove the EV Charger Facilities. As used herein, "Permittee" shall mean the respective officers, directors, officials, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of MMPA.

## 2. Terms and Conditions of Licenses.

- 2.1. Construction, Maintenance, and Repair: MMPA may construct, operate, monitor, maintain, repair, replace and remove the EV Charger Facilities throughout the term of this Agreement and any extensions thereto. MMPA shall have the right to contract with third parties in the exercise of its License rights and shall also have the right to sublicense to third parties any or all of its License rights.
- 2.2. Making, Monitoring, and Maintaining Connection. MMPA accepts all responsibility for making, monitoring, and maintaining the connection between the EV Charger and the local electrical distribution system's transformer or junction box, as applicable.
- 2.3. Benefits and Term: The Licenses granted by SPU to MMPA in this Agreement shall remain in effect for the entire term of this Agreement and any extensions thereto and shall run with the land.
- 2.4. Obstructions. The free flow of vehicular traffic over the Driveways and access to the EV Parking Spaces for use of the EV Charger Facilities shall not be materially obstructed or interfered with in any way, except to the



extent reasonably necessary for repair and maintenance, to accommodate truck deliveries, or traffic regulation and control.

- 2.5. EV Parking Spaces. MMPA shall have the right to mark the EV Parking Spaces with such signage, parking lines, and other similar means in order to designate such EV Parking Spaces for the exclusive use of the EV Charger Facilities. SPU shall maintain the EV Parking Spaces in connection with and to the same extent and condition as SPU maintains its other parking spaces within the Property.
  - 2.6. Work; Restoration of Property. Upon completion of any work requiring damage to the Property, MMPA shall, in all cases, restore the Property to the same or similar condition as it was prior to said work. Work shall be completed as promptly as weather permits. If MMPA does not perform and complete the restoration work, remove all dirt, rubbish, equipment and material, and put the Property in the required condition within a reasonable period following completion of the work requiring such damage, SPU shall deliver a written demand for such performance and completion to MMPA. If MMPA fails to perform the restoration work within a reasonable period of time following the demand (which period shall not exceed fifteen (15) days), SPU shall have the right to make the restoration at the expense of MMPA. MMPA shall reimburse SPU's cost of restoration within 30 days of receipt of an invoice for the work. This remedy shall be in addition to any other remedy available to SPU.
  - 2.7. No Payments. No payments or rent will be paid by MMPA to SPU or any other party for the Licenses during the term of this Agreement.
3. Use of License Areas by SPU. The License Areas are located within SPU's parking area for SPU's business. SPU retains the right to use the License Areas for activities related to its business, in accordance with and subject to the following terms:
- 3.1. No Interference with EV Charger Facilities. Such usage shall not in any way interfere with the EV Charger Facilities or the EV Parking Spaces, or the maintenance, monitoring, operation, or repair of such facilities.
  - 3.2. No Items Near Charger. No structures, fences, landscaping items (other than grass or turf), trees, or other items shall be built, installed, or planted within the License Areas without the prior written consent of MMPA, which may be granted or withheld in MMPA's sole discretion.
  - 3.3. Soil Conditions and Maintenance. SPU shall maintain all grass or other landscaping on the Property, including within the License Areas. MMPA shall have no responsibility regarding such matters as soil condition, weed control, or grass maintenance.

4. **Term.** The Term of this Agreement shall commence on the effective date and continue thereafter for a 10-year period, ending on the tenth (10<sup>th</sup>) anniversary of the Effective Date. The Agreement may be extended by MMPA, at its option, beyond said Term for up to two additional five-year periods. This right to extend may be exercised by delivery of a written request for such extension at least ninety days prior to the expiration of this Agreement or any existing extension thereof.

5. **Ownership of EV Charger Facilities.**

5.1. **Ownership Rights of MMPA.** MMPA shall have all ownership rights in the EV Charger Facilities.

5.2. **No Ownership of EV Charger Facilities by SPU.** SPU shall have no ownership or other interest in EV Charger Facilities installed in the License Areas and MMPA may remove or replace any or all EV Charger Facilities at any time. MMPA shall provide SPU with 60 days' written notice before decommissioning and removing the EV Charger Facilities.

5.3. **Removal of EV Charger Facilities.** Upon the termination of this Agreement and subject to any agreement to convey the EV Charger Facilities to SPU, MMPA shall, at its own expense, remove all above-ground EV Charger Facilities, including the foundation, and provide such grading and paving as may be appropriate to return the land to its approximate condition prior to the installation of the EV Charger Facilities. MMPA may abandon all underground facilities within the License Areas in place.

6. **MMPA's Covenants.** MMPA hereby covenants to SPU that:

6.1. **Indemnification.** MMPA shall indemnify, keep, hold and defend SPU, its officials, employees and agents free and harmless from any and all liability loss, cost, damage, liability or expense, including reasonable attorneys' fees, suffered or incurred by SPU, its officers, employees, or agents, arising out of MMPA's negligence or willful acts or omissions or the negligence or willful acts or omissions of its employees, agents or contractors related to MMPA's use of the Property. SPU shall not be indemnified for losses or claims occasioned through SPU's own negligence or misconduct.

6.2. **Insurance.** MMPA shall maintain liability insurance, insuring MMPA and SPU if loss caused by MMPA's use of the Property under this Agreement (the "Policy"). The Policy shall provide for a coverage limit of two million dollars (\$2,000,000.00). Under such a Policy, SPU will be named as an additional insured by endorsement with respect to operations or activities of MMPA but only to the extent that SPU is held liable for damage and injury for which MMPA is liable under this Agreement. No coverage is provided for liability arising out of SPU's or its tenants, invitees, or

permittees' own negligence or misconduct. MMPA shall require each of its contractors, consultants or agents performing work on behalf of the MMPA to procure and maintain comparable insurance coverage that meets the requirements of this Section 6.2. MMPA agrees to supply SPU with a certificate of insurance that shows insurance coverage provided under the Policy, as SPU may reasonably request. SPU and MMPA each agree that nothing in this section regarding indemnity or insurance shall be a waiver of any immunity that either SPU or MMPA may have under Minnesota statutes, except to the extent that valid and collectible insurance exceeds applicable limits and covers the claim, as set forth in Minnesota Statute Section 466.06.

- 6.3. Requirements of Governmental Agencies. MMPA, at its expense, shall comply in all material respects with valid and applicable laws, ordinances, statutes, orders and regulations of any governmental agency in connection with the installation and operation of the EV Charger Facilities. MMPA shall have the right and sole discretion to contest by appropriate legal proceedings, brought in the name of MMPA or in the name of both MMPA and SPU where appropriate and required, the validity or applicability to the Property or EV Charger Facilities of any law, ordinance, statute, order, regulation, property assessment or the like, now or hereafter made or issued by any federal, state, county, local, or other governmental unit or entity. SPU shall cooperate in every reasonable way in such contest, at no out-of-pocket expense to SPU. Any contest or proceeding, including any maintained in the name of SPU, shall be controlled and directed by MMPA.
7. SPU's Representations, Warranties, and Covenants. SPU hereby represents, warrants and covenants as follows:
  - 7.1. SPU's Authority. SPU is the sole owner of the Property and holds fee simple title to the surface estate of the Property. There are no liens, encumbrances, mortgages, or leases affecting the Property as of the date hereof, or, alternatively, SPU shall obtain within 30 days of the effective date hereof subordination agreements from any existing holder of any lien, encumbrance, mortgage, or lease affecting the Property. SPU has the unrestricted right and authority and has taken all necessary action to authorize SPU to execute this Agreement and to grant to MMPA the rights granted hereunder. Each person signing this Agreement on behalf of SPU is authorized to do so. When signed by SPU, this Agreement constitutes a valid and binding agreement enforceable against SPU and the Property in accordance with its terms.
  - 7.2. Restrictive Covenant – No Interference. MMPA shall have the quiet use and enjoyment of the Licenses in accordance with the terms of this Agreement. SPU warrants and represents that there is no pending or, to

SPU's knowledge, threatened condemnation or similar proceedings, lawsuit or other claim which may affect the License Areas.

7.3. Liens and Tenants. Except as disclosed to MMPA in writing, there are no liens, encumbrances, leases, mortgages, deeds of trust, mineral or oil and gas rights, options, rights of refusal, preferential rights to purchase or lease or other exceptions to SPU's fee title ownership of the Property which are not recorded in the public records of the County in which the Property is located.

7.4. Requirements of Governmental Agencies; Cooperation. SPU shall assist and fully cooperate with MMPA, at no out-of-pocket expense to SPU, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews, or any other permits or approvals required for the construction, installation, relocation, replacement, maintenance, operation or removal of EV Charger Facilities on the License Areas, including execution of applications for such permits or approvals if required. In connection with any applications for such approvals, SPU agrees at MMPA's request to support such application (at no out-of-pocket expense to SPU) at any administrative, judicial or legislative level. In the event that any laws, rules, regulations or ordinances of any governmental agency provide for setbacks or otherwise restrict the location of any EV Charger Facilities to be installed on the Charger License Area, SPU shall cooperate with MMPA in obtaining waivers of such setbacks and shall execute any documents reasonably requested by MMPA to evidence such waiver of such setbacks. SPU provides no guarantees of the approval of any applications or waivers presented to SPU.

7.5. Indemnity. Subject to the tort liability limits provided under Minn. Stat. chapter 466, SPU hereby agrees to indemnify and hold MMPA against liability for physical damage to property and for physical injuries to any person, to the extent caused by the operations or activities of SPU or SPU's invitees, employees, tenants, agents or contractors.

## 8. Termination.

8.1. MMPA Right to Terminate. MMPA shall have the right to terminate this Agreement, as to all or any part of the Property at any time and/or for any reason, effective upon notice to SPU from MMPA.

8.2. No Terminations by SPU. SPU shall not have the right to terminate this Agreement without the consent of MMPA.

9. Arbitration. All disputes which in any manner arise out of or relate to this Agreement or the subject matter hereof, shall be resolved in the first instance amicably by meetings among members of designated representatives of SPU

and MMPA. If such meetings are unsuccessful, then such dispute shall be resolved exclusively by arbitration pursuant to the rules and procedures of the American Arbitration Association (the "AAA") conducted in Minnesota pursuant to the laws of the state of Minnesota.

10. **Notices.** All notices, requests, demands, waivers, approvals, consents, and other communications required or permitted by this Agreement shall be given in writing by personal delivery (confirmed by courier delivery service), or facsimile, receipt confirmed, or first class U.S. mail, postage prepaid, return receipt requested, certified, addressed as follows:

If to SPU:  
Shakopee Public Utilities  
255 Sarazin St.  
Shakopee, MN 55379

If to MMPA:  
Minnesota Municipal Power Agency  
c/o Avant Energy Services, Inc.  
220 South Sixth St., Ste.1300  
Minneapolis, MN 55402

11. **Miscellaneous.**

- 11.1. This Agreement supersedes all prior discussions and negotiations and contains all agreements and understandings between SPU and MMPA.
- 11.2. This Agreement may be signed in counterparts by the parties hereto.
- 11.3. MMPA may, at any time and without Owner's consent, assign this Agreement to SPU or any department, division, agency, or commission responsible for SPU's electric service. Upon assumption of the Agreement by SPU or any department, division, agency, or commission responsible for SPU's electric service, MMPA shall be released from any obligations related to this Agreement arising after the date of assignment. MMPA may assign this Agreement at any time to any other person without SPU's consent provided that the same shall not release MMPA from any of the obligations arising under this Agreement unless SPU provides its written consent to a release, which consent shall not be unreasonably withheld, conditioned or delayed.
- 11.4. If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of the Agreement, which shall continue in full force and effect.
- 11.5. Headings set forth herein are for convenience, only and are not to be construed against the content of any paragraphs herein.
- 11.6. This Agreement shall be construed in accordance with the laws of Minnesota.
- 11.7. This Agreement may not be modified or changed except by the written agreement of both Parties.

[Signature Page Follows.]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first written above.

**Shakopee Public Utilities**

**Minnesota Municipal Power Agency**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

and

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) ss.

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2021, \_\_\_\_\_, as the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ of the State of \_\_\_\_\_, on behalf of said \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ ) ss.

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as the \_\_\_\_\_ of Minnesota Municipal Power Agency, a political subdivision of the State of Minnesota, on behalf of said Agency.

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

This Instrument Was Drafted By:  
Stinson LLP (RLS)  
50 South Sixth Street, Suite 2600  
Minneapolis, MN 55402  
Phone: (612) 335-1500



**EXHIBIT A:**  
Legal Description of Property

Section 05 Township 115 Range 022 | W 1234.91' of NW 1/4

**EXHIBIT B:**

Site Map Depicting License Areas,  
EV Charging Facilities, and EV Parking Spaces



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 www.shakopeeutilities.com

DATE: September 15, 2021  
 TO: SPU Commissioners  
 FROM: Greg Drent, General Manager *GD*  
 Subject: COVID Policies

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### BACKGROUND

At our last Commission meeting there was discussion regarding COVID policies and practices as to six topics. In addition to SPU staff responses, we requested information from the League of Minnesota Cities. SPU also gathered additional information as to current mask requirements and recommendations. This information is summarized below.

1) **Commission Meetings**: Have we assessed whether it is prudent to continue to hold in-person commission meetings, what mitigation strategies are being employed and on what basis are we making that decision?

**SPU Staff**: 9/7/21 Commission Meeting discussed Minnesota Statutes, Section 13D.02 and requirements for remote participation by Commissioners through interactive technology.

**LMC**: The League does not have specific recommendations aside from following public health orders in effect at the time. The League has produced a document on holding remote meetings in case that is of interest: <https://www.lmc.org/resources/city-options-for-meeting-remotely/> In most counties in Minnesota, the recommendation is to wear masks indoors, regardless of vaccination status.

2) **Masking**: What is our current policy regarding masking for employees? On what basis have we set the current policy? Under what conditions will we adjust that policy as the pandemic continues? The CDC currently recommends that even vaccinated people wear masks in Scott County. Is that recommendation being incorporated into our decision making?

**SPU Staff**: Our current policy is we follow the CDC guidelines. Yes, the CDC recommends that even vaccinated people wear masks in High Community transmission areas. We currently are not requiring people to wear masks. It is at their own discretion/comfort level.

**LMC**: The League recommends follow public health recommendations from the Minnesota Dept. of Health and the CDC. The city council usually makes these decisions for city-owned buildings.



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Statutory Authority: SPU authorized to "own and operate" utility systems and to "make all necessary rules and regulations for the protection, maintenance, operation, extension, and improvement thereof and for the sale of its utility products." In addition, the Commission "shall have power to extend and to modify or rebuild any public utility and to do anything it deems necessary for its proper and efficient operation."

Current Requirements/Recommendations:

The following chart summarizes current COVID mask responses. Further detail from websites is provided at the end of the memo.

City of Shakopee	Not required in City facilities; recommended for those not fully vaccinated when indoors
Scott County	Required for employees when indoors and 2 or more people; non-employees strongly encouraged, but not required, to wear masks
CDC	Recommends wearing a mask indoors in public if in an area of substantial or high transmission.
MN Dept Health	Recommends masks in indoor businesses and public settings and crowded outdoor settings in areas with substantial or high transmission.

3) **Remote Work:** What is our current remote work policy for employees who are able to work remotely? On what basis have we set the current policy? Under what conditions will we adjust that policy as the pandemic continues?

SPU Staff: As of May 10<sup>th</sup>, all SPU employees were scheduled back in the office. If the CDC increases its mandates, some employees can work remotely. (With offering the vaccine, and employees electing/or not electing, it was the determination for employees to come back).

LMC:

Remote work policies are something employers will likely want to consider in the current climate given the spread of COVID, regular quarantine periods for exposures, childcare shortages, and general labor shortages. This is a local decision but we have created the following resources:  
<https://www.lmc.org/resources/city-employment-issues-covid/> and  
<https://www.lmc.org/resources/employment-accommodations-covid/>

4) **Testing/Reporting:** What is our current policy on testing and reporting for employees? If/when do we require tests and reporting of results? What are we reporting to our employees about positive test results?

**SPU Staff:** All employees are aware that if they don't feel well and have been exposed or have symptoms, they do not come into work. They contact their supervisors and get tested. Once results are given, either they will come back to work or stay out for the required amount of time. (This is determined by the CDC and if they have been vaccinated or not). If there is a positive test result, employees are told that an employee was either directly exposed or has symptoms. That employee is required to stay home until they have satisfied the designated time off, by the CDC).

**LMC:** We usually suggest that an entity check in with the MN Dept. of Health related to most recent quarantine recommendations given that they change based on specific circumstances. Entities want to make sure they are keeping employee medical data private.

5) **Exposure/Quarantine:** What is our current policy on quarantining for known exposures? When an employee is exposed, what is the current policy regarding reporting of that exposure? What has been communicated to employees on quarantining?

**SPU Staff:**

Depending upon if the employee is vaccinated or not. Same as (Testing/Reporting)

Fully vaccinated,

- If in close contact with someone with COVID-19 they need to get tested 3-5 days after the date of exposure and wear a mask in public indoor settings for 14 days after exposure or until a negative test result.
- Also, wear a mask in public indoor settings if they are in an area of substantial or high transmission (Currently Scott County is in High transmission).
- Isolate if tested positive for COVID-19 in the prior 10 days or are experiencing symptoms.

Not Vaccinated

- Anyone with symptoms must get tested immediately
- Stay home 14 days (do not go to work, school, or any place outside your home)
- If multiple people in the home the 14 days starts after the last person has completed their isolation.

**LMC:** Same answer as #4.



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6) **Vaccine Mandate:** Have we considered a vaccine mandate for SPUC employees? On what basis have we made the decision for current policy? Under what conditions will we adjust that policy as the pandemic continues?

**SPU Staff:** We have not considered a vaccine mandate for SPU employees. That would potentially be the Commission decision. We have offered all employees free shots (Moderna) at the Mdewakanton Fire Dept. In April 2021.

**LMC:** If the entity has 100 or more employees, there is a strong likelihood that the OSHA ruled announced last Thursday will be something SPUC will need to work through. The rule is still being drafted and is expected in 2-3 weeks so we don't have much for answers there.

#### ACTION

**Mask Mandate:** Should SPU consider returning to a mask mandate in its Service Center and/or for its employees?

**Remote working:** Will be monitored and if practical accommodate remote working. GM will make final decision on remote working.

**Vaccine mandate:** Commission to decide on whether or not to mandate vaccines.

**Seating at Commission meeting** will be different to accommodate social distancing.



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Excerpts from websites as to mask requirements and recommendations:

#### City of Shakopee

In accordance with Gov. Tim Walz's May 13 announcement lifting the statewide mask mandate, the City of Shakopee no longer requires face coverings in city facilities.

The City of Shakopee does not have a citywide mask mandate but will continue following executive orders from the governor and guidelines set by the U.S. Centers for Disease Control. The CDC recommends people who are not fully vaccinated against COVID-19 continue to wear face coverings while indoors. Full vaccination occurs two weeks after receiving your last dose of the COVID vaccine.

Effective May 14, the governor's executive council approved ending the indoor mask mandate, which had been in place since July 2020. Private businesses may still require people to wear masks inside their buildings. Please respect these establishments by following the posted guidance.

#### Minnesota Department of Health

Because the Delta variant is shown to spread more easily, MDH recommends everyone, **both fully vaccinated and unvaccinated**, wear a mask in the following situations:

- **Indoor businesses and public settings and crowded outdoor settings in areas with substantial or high transmission.**

**In addition to the above recommendations for everyone**, anyone who is not fully vaccinated, including children ages 2 and older, should continue to wear well-fitted facemasks in the following settings, regardless of COVID-19 transmission levels:

- Indoor businesses and public settings
- Around people from other households
- Outdoors when social distancing cannot be maintained

When wearing a mask in these situations is impractical or impossible (for example, when eating or drinking, or when presenting or performing in situations where it is necessary for faces to be visible), it is particularly important to maintain social distancing of at least 6 feet from others as much as possible.



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## Scott County

### **Scott County building mask requirements: Updated August 18, 2021**

**In light of the surge in COVID-19 cases and the emergence of the Delta variant throughout the state and locally, Scott County is again requiring employees to wear masks** when conducting business indoors when two or more people are present (with certain exceptions). **Patrons and other visitors to County facilities are strongly encouraged, although not required, to wear masks when conducting business with our staff and others.**

**PLEASE NOTE: Anyone entering the Scott County Justice Center building will still be required to continue to wear a mask and follow social distancing requirements.**

We continue to encourage that **people continue to wear masks when there are large gatherings in public spaces** to protect those who have not been vaccinated, either due to their choice or due to their specific health conditions.

## CDC

To maximize protection from the Delta variant and prevent possibly spreading it to others, wear a mask indoors in public if you are in an area of substantial or high transmission.







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**DATE:** September 16, 2021  
**TO:** Greg Drent *[Signature]*  
**FROM:** Jean McGann, Consulting Finance Director  
**SUBJECT:** Consideration of Auditor

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**Background**

On August 2, 2021, Shakopee Public Utilities released an Audit Request for Proposal. The Audit Request for Proposal was posted to the League of Minnesota website, Shakopee Public Utilities website and emailed directly to several audit firms in the Twin Cities that work with governmental clients.

Shakopee Public Utilities received three proposals for audit services and there were two firms that declined to propose due to other client commitments and scheduling conflicts. The three firms that submitted proposals are:

- Bergan/KDV
- Clifton, Larson Allan (CLA)
- Wipfli

Each of the proposals have been evaluated for compliance with the Request for Proposal requirements, experience with governmental entities, experience with municipal utilities, ability to meet audit timeline preferred by SPU and cost.

Each of the Firms providing proposals have experience with governmental entities and two of the three provided references for municipal utilities. All Firms can meet the audit timeline preferred by SPU. The significant difference with the proposals is the cost. Outlined below are the fees provided by each audit firm.

Firm	2021	2022	2023
Bergan/KDV	\$19,750	\$20,200	\$20,750
Clifton, Larson Allan (CLA)	\$23,500	\$24,250	\$25,000
Wipfli	\$28,960 plus out of pocket expenses estimated at \$1,000	\$30,410 plus out of pocket expenses estimated at \$1,000	\$31,935 plus out of pocket expenses estimated at \$1,000

After considering all factors above, I recommend Shakopee Public Utilities enter into an agreement with Bergan/KDV for 2021, 2022 and 2023 audit services. Bergan/KDV has established a good relationship



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with SPU staff, have streamlined the audit process, has a great reputation and has provided the lowest fee for audit services.

**Recommendation**

The Commission is requested to have the General Manager enter into an agreement with Bergan/KDV for 2021, 2022 and 2023 audit services.