



**City of Oskaloosa
City Council/Water Board Joint Meeting
Council Chambers
City Hall, 220 S. Market Street
Oskaloosa, IA 52577
Agenda
August 27, 2015**

Call to Order and Roll Call - 4:00 P.M.

1. Roll Call

_____ Mayor David Krutzfeldt, Council Members:

_____ Caligiuri, _____ Jimenez, _____ Moore, _____ Van Zetten, _____ Ver Steeg,

_____ Walling, _____ Yates.

Documents: [CALL TO ORDER AND ROLL CALL.DOCX](#)

2. Approve August 27, 2015 Agenda

3. Consider Adoption Of Consent Agenda As Presented Or Amended.

All items appearing on the Consent Agenda are considered routine by the City Council and shall be enacted by one motion. If discussion is desired, that item shall be removed, discussed separately and approved by a separate motion of the City Council.

Documents: [20150827 SUMMARY CONSENT AGENDA.DOCX](#)

A. Consider Approval Of Change Order 1A For A Net Increase Of \$344.00 In The Purchase Agreement With Heiman Fire Equipment For A Pumper/Tanker Apparatus.

Documents: [20150827 CHANGE ORDER ITEM.DOCX](#), [CHANGE ORDER ATTACHMENTS.PDF](#)

B. Consider Payment To The Iowa Department Of Natural Resources For The Annual National Pollutant Discharge Elimination Systems (NPDES) Permit Fees For \$2,550.

Documents: [20150827 NPDES PERMIT FEES.DOC](#), [INVOICES.PDF](#)

C. ----- END OF CONSENT AGENDA -----

4. Consider A Conditional Resolution In Support Of The Proposed Terms To Be Included In An Agreement For Private Development By And Between The City And Oskaloosa Downtown Development, LLC.

Documents: 20150827 - ITEM RESOLUTION OF SUPPORT FOR ODD.PDF, ODD
CONDITIONAL RESOLUTION.PDF, 20150825 - TIF - ODD REQUEST FOR 500K SWIMS
EVANS BLOCK.PDF

**5. Discussion And Possible Action On A 28E Agreement Between The City Of
Oskaloosa, Iowa And The Oskaloosa Municipal Water Board Of Trustees.**

Documents: 20150827 - 28E AGREEMENT OWMD WATER AND SEWER.DOCX, 1
EXECUTIVE SUMMARY 08-21-2015.PDF, ORG CHART - WATER AND SEWER
STAFFING PROPOSAL 08-27-2015.PDF,
OSKALOOSA_UTILITY_EMPLOYEE_RECOMMENDATION_08-27-2015.PDF,
AGREEMENT BETWEEN CITY AND OMWD - RECOMMENDED PROPOSAL 08-27-
2015.PDF, LEGAL OPINION 28E AGREEMENT.PDF

6. Adjournment

**If you require special accommodations, please contact the City Manager's Office at least
24 hours prior to the meeting at (641) 673-9431.**



City Council Communication

Meeting Date: August 27, 2015

Requested By: Mayor & City Council

Item Title: Call to Order and Roll Call – 4:00 p.m.

1. Roll Call: _____ Mayor David Krutzfeldt, Council Members:

_____ Caligiuri, _____ Jimenez, _____ Moore, _____ Van Zetten,

_____ Ver Steeg, _____ Walling, _____ Yates.

2. Approve August 27, 2015 Agenda

Explanation:

Not applicable.

Budget Consideration:

Not applicable.

Attachments:

None.

Consent Agenda Items: All items appearing on the Consent Agenda are considered routine in nature and no discussion is anticipated.

Item A. Consider approval of Change Order 1A for a net increase of \$344.00 in the purchase agreement with Heiman Fire Equipment for a pumper/tanker apparatus.

Item B. Consider payment to the Iowa Department of Natural Resources for the annual National Pollutant Discharge Elimination Systems (NPDES) permit fees for \$2,550.



City Council Communication
Meeting Date: August 27, 2015
Requested By: City Manager's Office

Item Title: CONSENT AGENDA

Consider approval of Change Order 1A for a net increase of \$344.00 in the purchase agreement with Heiman Fire Equipment for a pumper/tanker apparatus.

Explanation:

At the June 1, 2015 city council meeting city council authorized the Mayor to enter into a purchase agreement with Heiman Fire Equipment for the purchase of a pumper/tanker apparatus in an amount not to exceed \$281,323.00; \$194,574.00 for pumper/tanker equipment and \$86,749.00 for a 2016 Freightliner M-2106 chassis.

The purpose of this change order is to delete the radio installation originally specified because the department has elected to have their local radio supplier do the installation after delivery of the completed unit which amounts to a deduction of \$151.00; and add two (2) custom door seals (maltese crosses) for an increase of \$495.00; resulting in a net increase of \$344.00. The increase will change the amount allocated for pumper/tanker equipment from \$194,574.00 to \$194,918.00.

Staff recommends approval of the change order for a net increase of \$344.00.

Budget Consideration:

An increase of \$344.00 in the purchase agreement for new pumper/tanker equipment. The amount is included in the FY 2015 budget.

Attachments:

Purchase Agreement
Resolution
Change Order



Fire Dept. OSKALOOSA FIRE DEPARTMENT Date 06/01/2015
 Address 220 S. Market Street
 City Oskaloosa State IA Zip Code 52577

Dear Sirs:

We hereby propose and agree to furnish, after your acceptance of this proposal and the proper execution by Oskaloosa Fire Department and an authorized employee of Heiman, Inc., the following apparatus and equipment:

Rosenbauer FX Pumper / Tanker Apparatus and related equipment mounted on a Freightliner chassis, all per the provided Rosenbauer and Freightliner specifications

All of which are to be built in accordance with the specifications, clarifications and exceptions attached, and which are made a part of this agreement and contract, to deliver same in 270 calendar* days after receipt of signed order, subject to all causes beyond our control, for the sum of:

| | |
|--|-----------------------------|
| <u>Rosenbauer FX Pumper/ Tanker/Equip.</u> | <u>\$ 194,574.00</u> |
| <u>2016 Freightliner M-2106 Chassis**</u> | <u>\$ 86,749.00</u> |
| TOTAL | <u>\$ 281,323.00</u> |

Two Hundred Eighty One Thousand Three Hundred Twenty Three -----Dollars

Payment Terms: Final payment for the apparatus shall be made at time of delivery or pick up of the completed vehicle. Due to insurance liability, the apparatus will not be left at the purchaser's location without full acceptance and payment or prior agreement between purchaser and bidder.

- * Note: Chassis must be received within 120 days or delivery date may be affected.
- ** Note: If chassis is NOT paid for upon arrival at the truck plant in Lyons, SD, ADD \$3,500.00.

The amounts in this proposal shall remain firm for a period of 30 days from the date of same.

Respectfully submitted,
 Dealer Heiman, Inc.

Salesman Kerry Severa

We agree to accept the above Proposal and enter into contract with signature below.

David Knuffelott Title Mayor

After company receipt of this document signed by the Buyer, the document will be reviewed and upon approval, countersigned by the Company, thereby putting the document in force.

Title _____
 Date 6/3/2015

Title _____
 Date _____

6/3/15 Give me signed original to Mark.

RESOLUTION NO. 15-06-63

RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A PURCHASE AGREEMENT WITH HEIMAN FIRE EQUIPMENT FOR THE ACQUISITION OF A NEW PUMPER/TANKER FIRE APPARATUS

WHEREAS, City of Oskaloosa general obligation bonds will be sold for the fire station addition and remodel project,

AND WHEREAS, included in these general obligation bonds is \$285,000.00 for the purchase of a new pumper/tanker fire apparatus,

AND WHEREAS, the Chief of the Oskaloosa Fire Department contacted various dealers that sell this type of apparatus,

AND WHEREAS, the Chief of the Oskaloosa Fire Department received bids from various dealers for a pumper/tanker fire apparatus,

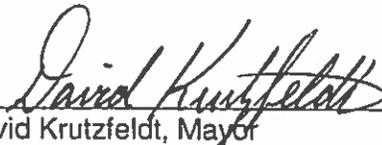
AND WHEREAS, the bid received from Heiman Fire Equipment was the only dealer to meet all specifications given within the allocated funding limits for a new 2016 pumper/tanker fire apparatus,

AND WHEREAS, specifications for the new 2016 Rosenbauer FX pumper/tanker have been reviewed by staff and recommended for purchase approval,

AND WHEREAS, the City Council finds the most satisfactory bid to be from Heiman Fire Equipment.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Oskaloosa, Iowa that the Mayor of the City of Oskaloosa, Iowa is authorized to enter into a purchase agreement with Heiman Fire Equipment for the purpose of purchasing a new 2016 Rosenbauer FX pumper/tanker for total amount not to exceed \$281,323.00.

PASSED AND APPROVED the 1st day of June, 2015.



David Krutzfeldt, Mayor

ATTEST:



Amy Miller, City Clerk

Change Order HEIMAN INC.

Fire Department: Oskaloosa Fire Department
 Attention: Chief Neff
 220 S. Market Street
 Oskaloosa, IA 52577

Date: 08/18/2015

Change Order Requested From XX Fire Dept. Dealer Central Change Order No. (1A)

We Hereby Agree to Make the change(s) specified below:

| | Page #1 |
|---|---------|
| <p>#1 DELETE the radio installation originally specified, the department has elected to have their local radio supplier do the installation after delivery of the completed unit.</p> <p style="padding-left: 40px;">In addition to the deletion of the radio install we need to CLARIFY that the original power source and antenna specified will remain in the production specifications for the local radio installer to connect to. The antenna and power source will terminate in the center console.</p> <p style="text-align: right; margin-right: 20px;">Deduct: (\$151.00)</p> | |
| <p>#2 ADD two (2) custom door seals (maltese crosses) replicating the photos provided from the pre-construction conference on July 21st with Kerry. The crosses will get designed and will be approximately 8-10" in diameter and get placed in between the 3-4" letters on the doors, later noted in Item #3 of this change order.</p> <p style="text-align: right; margin-right: 20px;">Add: \$495.00</p> | |
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| | |
| Continued on Page #2 | |

#3 CLARIFY that it will get noted in the "Production Specifications" to letter the completed apparatus as follows:

-- Cab Doors:

OSKALOOSA 4" Slightly Arched

(Maltese Cross) "Sized to fit" (8-10") between upper and lower letters

FIRE DEPT. 3" Straight

-- Cab Fenders:

ENG. 74 3-4" (sized-to-fit) on the fenders, ahead of the vent.

Note: It will also get noted in the "Production Specifications" that the lettering is "Engine Turned" GOLD, outlined in Black.

No Charge

WE AGREE hereby to make change(s) specified above at this price \$344.00

PREVIOUS CONTRACT AMOUNT \$ 194,574.00

REVISED CONTRACT TOTAL \$ 194,918.00

Due to lead times of components and in fabrication this change order may delay delivery.

ACCEPTED -The above price and specifications of the Change Order are satisfactory and are hereby accepted. All work to be performed under same terms and conditions as specified in original contract unless otherwise stipulated.

Authorized Signature (contractor)

Date of acceptance / /

Authorized Signature (Fire Department)

Mark Noff

Date of acceptance 8/19/2015



City Council Communication
Meeting Date: August 27, 2015
Requested By: City Clerk/Finance

Item Title: CONSENT AGENDA

Consider payment to the Iowa Department of Natural Resources for the annual National Pollutant Discharge Elimination Systems (NPDES) permit fees for \$2,550.

Explanation:

The invoices for the annual National Pollutant Discharge Elimination Systems (NPDES) permit fees were received by the city on August 13, 2015 after the agenda for the August 17, 2015 meeting had been completed. The annual fees must be submitted by August 30, 2015. Failure to submit the required amount by the due date is a violation of Iowa Administrative Code 567-64.16 (455B) and may result in revocation or suspension of the facility's permit.

Budget Consideration:

\$2,550 from the Sanitary Sewer Fund

Attachments:

Iowa Department of Natural Resources Mailing



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

RECEIVED

DEPARTMENT OF NATURAL RESOURCES
CHUCK GIPP, DIRECTOR

AUG 13 2015

August 8, 2015

OSKALOOSA, CITY OF
CITY HALL, 220 S. MARKET ST.
OSKALOOSA, IA 52577

CITY CLERK OF OSKALOOSA

RE: Annual Wastewater Permit Fee for Permits 6273001 and 6273002; OSKALOOSA CITY OF STP (NORTHEAST) and OSKALOOSA CITY OF STP (SOUTHWEST)

To Whom It May Concern:

Enclosed are the invoices for the annual NPDES permit fees for the state fiscal year 2016 (July 1, 2015 – June 30, 2016). This fee is referenced in the Iowa Administrative Code at 567-64.16(455B). All facilities covered by a non-storm water NPDES or operation permit are required to submit an annual fee based on facility type.

The annual fees specified on the enclosed invoices must be submitted by August 30, 2015. Failure to submit the required amount by the due date is a violation of Iowa Administrative Code 567-64.16(455B) and may result in revocation or suspension of the facility's permit as noted in 567 IAC 64.3(11)"f." The annual fees must be paid in full.

Sign and return the invoices together with a check or money order for the total amount made payable to "Iowa Department of Natural Resources". If your current mailing address is different from that on the invoices, please clearly note the address change by correcting the address on the invoices.

If you wish to pay by credit card, please fax the completed invoices to 515-725-8202, and then call 515-725-8200 fifteen minutes later. If you do not fax the completed invoices before you call, the fee cannot be processed.

Please note: On July 1, 2015, the Environmental Emergency Reporting Hotline Number changed to 515-725-8694. For more information regarding the hotline number, please see our website at: <http://www.iowadnr.gov/InsideDNR/RegulatoryLand/EmergencyPlanningEPCRA/SpillReporting>.

If there are any questions regarding the annual fees, please contact me at 515/725-8411 or courtney.cswercko@dnr.iowa.gov.

Sincerely,

Courtney Cswercko
NPDES Permits Section

Enclosures



**National Pollutant Discharge
Elimination Systems (NPDES)
Annual Fee Invoice**

Cashiers Use Only

0945-542-NPDE-0570-
32-3201
Permit ID#:6273001
OSKALOOSA CITY OF STP
(NORTHEAST)

OSKALOOSA CITY OF STP (NORTHEAST)

CITY OF OSKALOOSA
CITY HALL, 220 S. MARKET ST.
OSKALOOSA, IA 52577

Permit ID #: 6273001
Amount Due: \$1275.00
Due Date: 8/30/2015

The facility noted above is required to submit the specified annual fee by the specified due date. Failure to submit the required amount by the due date is a violation of Iowa Administrative Code 567-64.16(455B) and may result in revocation or suspension of the facility's NPDES permit as noted in 567-64.3(11)"f." The annual fee must be paid in full.

Please sign and return this form together with a check or money order made payable to "Iowa Department of Natural Resources".

If you have any questions regarding the annual fees, please contact Courtney Cswercko at 515/725-8411.

Signature of Responsible Official:

Printed Name:

Title:

Mail to:
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, IA 50319-0034

DNR Form 542-1254



**National Pollutant Discharge
Elimination Systems (NPDES)
Annual Fee Invoice**

Cashiers Use Only

0945-542-NPDE-0570-
32-3201
Permit ID#:6273002
OSKALOOSA CITY OF STP
(SOUTHWEST)

OSKALOOSA CITY OF STP (SOUTHWEST)

CITY OF OSKALOOSA
CITY HALL, 220 S. MARKET ST.
OSKALOOSA, IA 52577

Permit ID #: 6273002
Amount Due: \$1275.00
Due Date: 8/30/2015

The facility noted above is required to submit the specified annual fee by the specified due date. Failure to submit the required amount by the due date is a violation of Iowa Administrative Code 567-64.16(455B) and may result in revocation or suspension of the facility's NPDES permit as noted in 567-64.3(11)"f." The annual fee must be paid in full.

Please sign and return this form together with a check or money order made payable to "Iowa Department of Natural Resources".

If you have any questions regarding the annual fees, please contact Courtney Cswercko at 515/725-8411.

Signature of Responsible Official:

Printed Name:

Title:

Mail to:
Iowa Department of Natural Resources
502 East 9th Street
Des Moines, IA 50319-0034

DNR Form 542-1254



City Council Communication
Meeting Date: August 27, 2015
Requested By: City Manager's Office

Item Title:

Consider a conditional resolution in support of the proposed terms to be included in an agreement for private development by and between the City and Oskaloosa Downtown Development, LLC.

Explanation:

During the special study session that occurred on August 25, 2015, Oskaloosa Downtown Development (O.D.D.), LLC made a presentation to the city council about a potential building project in downtown Oskaloosa. The O.D.D. is evaluating the possibility of acquiring and rehabilitating the Swim's building that was damaged during the May 11, 2015 fire. The O.D.D. is interested in securing the necessary construction dollars for the renovation project through multiple funding sources, including the city urban renewal district. O.D.D. is interested in pursuing a development agreement with the city of Oskaloosa for the purposes of securing \$500,000 of tax increment financing (TIF) funds and if the O.D.D. is able to secure the funds from the city, the renovation project becomes feasible and the O.D.D. will pursue the building acquisition and renovation.

This item is a result of the conversations that occurred during the August 25 study session of the City Council, and provides formal support to direct the city manager to create the necessary development agreement documents that would lead to the city's \$500,000 grant for the rehabilitation project.

The approval of a development agreement is a separate process that includes holding a public hearing prior to any formal action on the agreement. That process will occur at a future city council meeting, with a date yet to be determined.

Budget Consideration:

Please see the attached financial information as reviewed and discussed during the August 25, 2015 city council study session.

Attachments:

1. Resolution
2. Financial Information

RESOLUTION NO. _____

A CONDITIONAL RESOLUTION IN SUPPORT OF THE
PROPOSED TERMS TO BE INCLUDED IN AN AGREEMENT
FOR PRIVATE DEVELOPMENT BY AND BETWEEN THE CITY
AND OSKALOOSA DOWNTOWN DEVELOPMENT, LLC

WHEREAS, Oskaloosa Downtown Development, LLC (“ODD”) has approached the City of Oskaloosa (“City”) for consideration of a proposal wherein the City would provide financial incentives to ODD to assist ODD with the demolition, stabilization and redevelopment of the former Swim’s building; and

WHEREAS, ODD would agree to redevelop the property into a mixed use building with apartments on the upper floor and retail and/or office space on the lower floor (“Project”).

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Oskaloosa, Iowa:

Section 1: That the terms proposed below are hereby approved, contingent on the conditions in Section 2.

1. The City would provide Economic Development Grants payable solely from tax increment generated within the Oskaloosa Amended and Restated Urban Renewal Area, consisting of up to 2 consecutive annual payments, not to exceed a total of \$500,000, subject to Council approved terms and conditions in the City’s development agreement, which would represent a local community match required for ODD’s application for certain state and local grants.
2. ODD would commit to stabilizing and reconstructing the former Swim’s building according to plans and specifications incorporated into the development agreement and according to a mutually agreeable timeline.
3. Clawback options would be available to the City if operations cease or if construction obligations are not met.

Section 2: That the terms listed in Section 1 shall be incorporated into a development agreement to be drafted by the city’s counsel, including but not limited to, the above terms and other terms as recommended by counsel; that the development agreement shall be subject to Council approval in its final form; and that the development agreement will be subject to all legislative processes required before its approval, including a public hearing.

Section 3: That the City Manager be hereby authorized and directed to proceed with the preparation of the necessary documents for the development agreement.

PASSED AND APPROVED this day of August, 2015.

Mayor

ATTEST:

City Clerk

History of TIF asking and impact on increment value

| Fiscal Year | Increment Value Required | Annual Amount | General Fund Impact |
|-------------|--------------------------|---------------|---------------------|
| FY2008 | \$12,750,000 | \$469,437 | TBD |
| FY2009 | \$14,600,000 | \$560,289 | TBD |
| FY2010 | \$10,000,000 | \$367,112 | TBD |
| FY2011 | \$7,000,000 | \$242,412 | TBD |
| FY2012 | \$5,275,000 | \$194,024 | TBD |
| FY2013 | \$3,100,000 | \$112,602 | TBD |
| FY2014 | \$3,600,000 | \$121,207 | TBD |
| FY2015 | \$3,775,000 | \$122,324 | TBD |
| FY2016 | \$420 | \$13,011 | TBD |

How does this request impact increment value and the city's General Fund?

| Term | Increment Value Required | Annual Amount | General Fund Impact |
|---------|--------------------------|---------------|---------------------|
| 1 Year | \$15,300,000 | \$500,050 | (\$128,062) |
| 2 Years | \$7,650,000 | \$250,025 | (\$64,031) |
| 3 Years | \$5,100,000 | \$166,683 | (\$42,687) |
| 4 Years | \$3,825,000 | \$125,013 | (\$32,015) |

**All Terms Under Consideration Assume a December 2015 certification with first payout in FY 2016-17*

Other TIF projects under consideration or previously approved

| Project | Annual Amount | Approved? |
|---|-----------------------|-----------|
| <i>Corridor and wayfinding improvements</i> | - | - |
| Initial study by RDG | \$46,000 | Yes |
| Wayfinding signs | TBD | No |
| Entry monuments | TBD | No |
| Construction document work by RDG | TBD | No |
| <i>Acquisition and demolition of properties along A Ave. & Market St.</i> | - | - |
| 603 A Avenue acquired - needs demo | \$15,000 +/- | No |
| 517 B Avenue West - in litigation | \$50,000 +/- | No |
| 208 A Avenue West - offer made/rejected | \$50,000 +/- | No |
| Other properties TBD | | |
| <i>Main Street Oskaloosa</i> | - | - |
| Facade grant match | \$150,000 - \$250,000 | No |
| Revolving loan program | \$100,000 +/- | No |
| Upper story match | \$250,000 +/- | No |
| <i>Parking lot improvements</i> | TBD | No |
| <i>Administrative and legal fees</i> | \$10,000 +/- | No |
| <i>Other legal purposes - roads, sewer, development agreements, etc.</i> | TBD | No |



City Council Communication
Meeting Date: August 27, 2015
Requested By: City Manager's Office

Item Title:

Discussion and possible action on a 28E Agreement between the city of Oskaloosa, Iowa and the Oskaloosa Municipal Water Board of Trustees.

Explanation:

Please see the attached Executive Summary and supporting documents associated with this item.

Budget Consideration:

The one-year financial impact associated with the 28E Agreement is estimated at a \$104,000 increase to the city's wastewater utility fund. This increase in operational expenses is not specifically included in the FY2015 budget, however if approved, staff will need to ensure funding is reserved to accommodate the additional expenses – most likely from capital project funds. The net impact to water and sewer rate payers is approximately \$21,000 in additional expenses over a one year period of time.

Attachments:

1. Executive Summary
2. Proposed Staffing Chart
3. Financial Analysis
4. Proposed 28E Agreement
5. Legal Opinion

To: Mayor and City Council
From: City Manager Schrock
Date: August 21, 2015
Re: *Committee Recommendation*



The Water and Wastewater Working Committee (“COMMITTEE”) was formed in the fall of 2014 for the purpose of reopening discussions and exploring partnership opportunities between the city of Oskaloosa (“CITY”) and the Oskaloosa Municipal Water Department (“OMWD”). The COMMITTEE is dedicated to developing an efficient and effective utility service provision model for the betterment of the Oskaloosa rate and tax payers. Members of the COMMITTEE include: Mayor Krutzfeldt, Council Member Jimenez, Council Member Yates, Water Trustee Ryan and Water Trustee Vore.

The COMMITTEE recommends entering into a 28E Agreement between the CITY and OMWD for the purpose of providing single management of the community’s water, wastewater and stormwater utility systems. An initial five year term is proposed in the Agreement with automatic renewals set to occur each year thereafter. The Agreement does not change ownership of either entities’ current infrastructure or equipment.

The proposed Agreement sets forth OMWD’s obligation to provide day to day management of existing wastewater employees – presently there are four full time employees and three vacancies. OMWD would be responsible for filling the current vacancies with employees that would receive OMWD benefits and pay, yet would operate and maintain the CITY’s system.

The proposed Agreement presumes the OMWD Board would be responsible for overseeing operational decisions that affect the wastewater and stormwater systems as implemented by the staff of OMWD’s General Manager. Two non-voting members of the City Council, as well as the City Manager are expected to attend OMWD Board meetings and participate in discussions held by the Board, but would not vote on agenda items.

The role of the OMWD General Manager would be expanded to include strategic planning and day-to-day management implementation related to the wastewater and stormwater utility systems – this includes management of current and future wastewater staff. The OMWD General Manager position continues to be appointed and evaluated by OMWD Board, however the CITY representatives will have input on such matters by Agreement.

Budget setting approval and authority for wastewater and stormwater remains with the City Council, but day-to-day management of the City Council approved budget becomes the responsibility of the OMWD General Manager (and the OMWD Board w/City representatives). Although the use of the wastewater and stormwater budget shifts from the CITY to OMWD, the City Manager, City Clerk and Public Works Director will continue to closely monitor the budgets of those utility systems. Long term capital planning will be a joint effort between the CITY and OMWD. The OMWD Board, with the assistance of the City representatives, would be responsible for recommending to the City Council a 5-

10 year improvement program for the utility systems managed by OMWD. The City Council will then have the final say in approving funding allocation for the improvement program in the form of establishing a budget and authorizing rate increases/decreases, borrowing, etc.

OMWD will have to outlay payroll expenses for OMWD employees that perform wastewater function, however that cost will be paid back by the CITY in twelve equal payments. The monthly payments are calculated when the CITY and OMWD create a budget that is approved by the City Council. OMWD will not have other cash outlays as the wastewater and stormwater utilities will pay the invoices received for staffing as well as all usual expenses that are incurred for repairs, maintenance, training, fuel, utilities, etc. It should be noted that the proposed 28E Agreement does not contemplate an overhead, special, or administrative fee to be charged to CITY by OMWD.

The staffing arrangement proposed by the COMMITTEE reflects a total staffing of 16 full time equivalents (FTEs) for water (9 FTE) and wastewater (7 FTE). Staffing water and wastewater with 16 FTEs results in a net increase of approximately \$21,000 to ratepayers, if they have both a water and sewer account. Having said that, the proposed Agreement is expected to initially cost the wastewater utility an additional \$104,000, while saving OMWD approximately \$82,000 - this information is noted in the table below.

Financials for Proposed 28E Agreement

| OPERATING EXPENSES | Original FY 2015-16 Budget | | | Proposed FY 2015-16 Budget | | | Net Effect FY 2015-16 Budget | | |
|------------------------------------|----------------------------|--------------------|--------------------|----------------------------|--------------------|--------------------|------------------------------|------------------|-----------------|
| | Water | Sewer | Total | Water | Sewer | Total | Water | Sewer | Total |
| Personnel - Wages 5 | \$375,356 | \$358,402 | \$733,758 | \$314,400 | \$401,009 | \$715,409 | (\$60,956) | \$42,607 | (\$18,349) |
| Personnel - Benefits 6 | 220,813 | 145,099 | 365,912 | 185,751 | 192,620 | 378,371 | (35,062) | 47,521 | 12,459 |
| Repairs & Maintenance 7 | 253,040 | 120,000 | 373,040 | 254,040 | 121,000 | 375,040 | 1,000 | 1,000 | 2,000 |
| Contractual Services 8 | 99,262 | 276,594 | 375,856 | 99,394 | 276,726 | 376,120 | 132 | 132 | 264 |
| Commodities (Supplies) 9 | 226,291 | 64,310 | 290,601 | 226,291 | 64,840 | 291,131 | 0 | 530 | 530 |
| Utilities 10 | 95,275 | 3,400 | 98,675 | 95,275 | 3,400 | 98,675 | 0 | 0 | 0 |
| Insurance 11 | 58,100 | 22,190 | 80,290 | 58,100 | 22,190 | 80,290 | 0 | 0 | 0 |
| Vehicle 12 | 24,720 | 20,000 | 44,720 | 36,920 | 32,200 | 69,120 | 12,200 | 12,200 | 24,400 |
| Miscellaneous 13 | 8,240 | 0 | 8,240 | 8,240 | 0 | 8,240 | 0 | 0 | 0 |
| Total Operating Expenses 14 | \$1,361,097 | \$1,009,995 | \$2,371,092 | \$1,278,411 | \$1,113,985 | \$2,392,396 | (\$82,686) | \$103,990 | \$21,304 |

The savings that is expected to be achieved by OMWD comes from cost sharing the General Manager position, eliminating a Plant Operator position, and jointly funding a Utility Locate/Maintenance position with wastewater. The wastewater utility will see an increase in costs due to split funding the cost of the General Manager position, converting the Lab Technician to a Grade III Operator, and absorbing the higher pay and fringe benefits offered to OMWD employees compared to what is offered to CITY employees. This additional cost will be realized when OMWD fills two of the three current vacancies and the third vacancy is filled by taking half of the General Manager position and half of the Utility Locate/Maintenance position and split funding them between OMWD and the CITY.

In the event the CITY and OMWD Board support the 28E Agreement, the OMWD Board has expressed its interest and support of expanding the Board's membership from three to five members.

Based upon the information covered in the memo, as well as other details included in the proposed 28E Agreement, the COMMITTEE recommends the OMWD Board of Trustees and the Oskaloosa City Council consider the proposed 28E Agreement as a means to provide effective and efficient utility services to the Oskaloosa community.

Water & Sewer Staffing Proposal

Water staff: 9 FTE

Sewer staff: 7 FTE

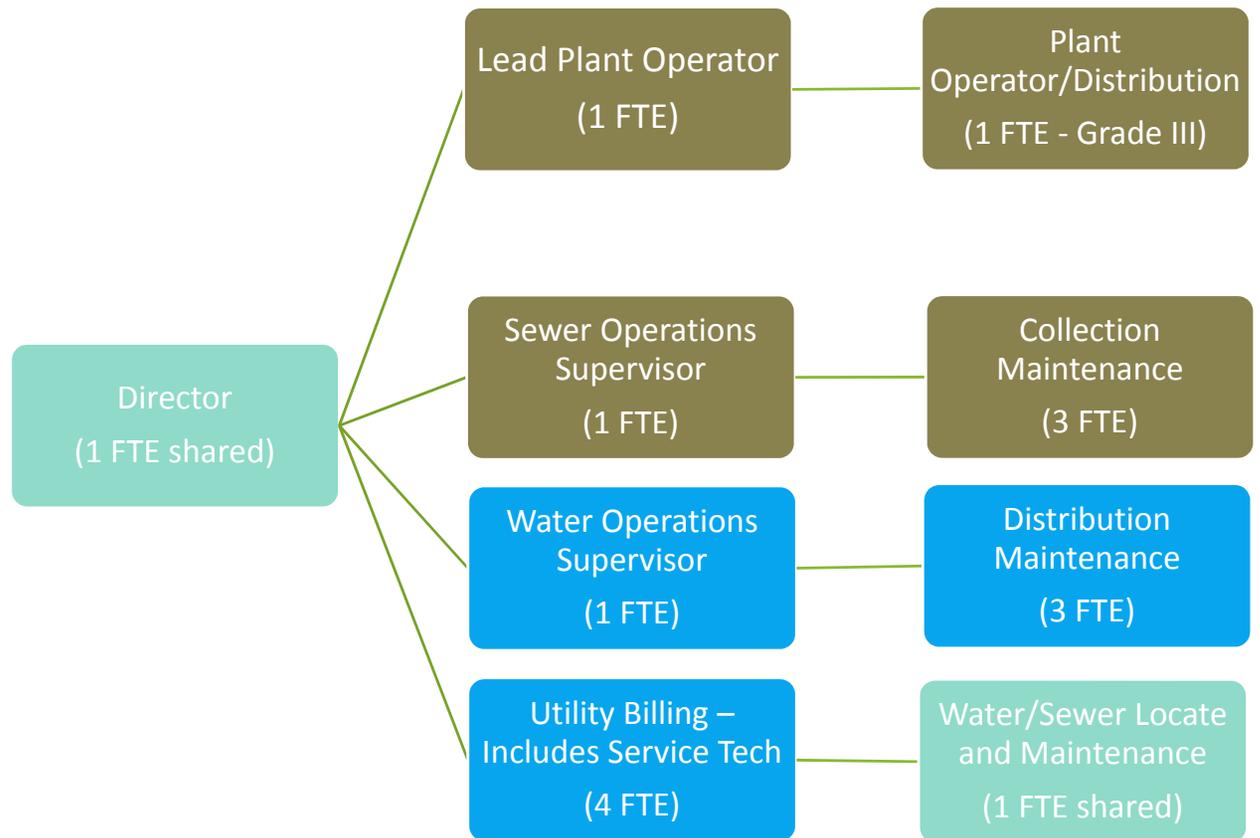
Total 16 FTE

Includes two split-funded positions:

1. Director; and
2. Locate/Maintenance with new vehicle

Reorganization Required:

1. Sewer Lab to Grade III Operator
2. Water Distribution staff to have higher certs to run plant



CITY OF OSKALOOSA, IOWA

Water & Sewer Utility Operating Expenses Summary

Assumes Maintained as City Employees

EXHIBIT 1

Committee Recommended Proposal

| | | Original FY 2015-16 Budget | | | Proposed FY 2015-16 Budget | | | Net Effect FY 2015-16 Budget | | |
|---------------------------------|----|----------------------------|---------------|----------------|----------------------------|---------------|----------------|------------------------------|-----------|------------|
| | | Water | Sewer | Total | Water | Sewer | Total | Water | Sewer | Total |
| OPERATING REVENUES | | | | | | | | | | |
| Metered Sales | 1 | \$1,604,219 | \$1,425,724 | \$3,029,942 | \$1,604,219 | \$1,425,724 | \$3,029,942 | \$0 | \$0 | \$0 |
| Min Billings/Avail Fees | 2 | 635,053 | 495,728 | 1,130,781 | 635,053 | 495,728 | 1,130,781 | 0 | 0 | 0 |
| Other Revenues | 3 | <u>265,427</u> | <u>48,464</u> | <u>313,892</u> | <u>265,427</u> | <u>48,464</u> | <u>313,892</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| Total Operating Revenues | 4 | \$2,504,699 | \$1,969,916 | \$4,474,615 | \$2,504,699 | \$1,969,916 | \$4,474,615 | \$0 | \$0 | \$0 |
| | | | | | | | | | | |
| OPERATING EXPENSES | | | | | | | | | | |
| Personnel - Wages | 5 | \$375,356 | \$358,402 | \$733,758 | \$314,400 | \$401,009 | \$715,409 | (\$60,956) | \$42,607 | (\$18,349) |
| Personnel - Benefits | 6 | 220,813 | 145,099 | 365,912 | 185,751 | 192,620 | 378,371 | (35,062) | 47,521 | 12,459 |
| Repairs & Maintenance | 7 | 253,040 | 120,000 | 373,040 | 254,040 | 121,000 | 375,040 | 1,000 | 1,000 | 2,000 |
| Contractual Services | 8 | 99,262 | 276,594 | 375,856 | 99,394 | 276,726 | 376,120 | 132 | 132 | 264 |
| Commodities (Supplies) | 9 | 226,291 | 64,310 | 290,601 | 226,291 | 64,840 | 291,131 | 0 | 530 | 530 |
| Utilities | 10 | 95,275 | 3,400 | 98,675 | 95,275 | 3,400 | 98,675 | 0 | 0 | 0 |
| Insurance | 11 | 58,100 | 22,190 | 80,290 | 58,100 | 22,190 | 80,290 | 0 | 0 | 0 |
| Vehicle | 12 | 24,720 | 20,000 | 44,720 | 36,920 | 32,200 | 69,120 | 12,200 | 12,200 | 24,400 |
| Miscellaneous | 13 | <u>8,240</u> | <u>0</u> | <u>8,240</u> | <u>8,240</u> | <u>0</u> | <u>8,240</u> | <u>0</u> | <u>0</u> | <u>0</u> |
| Total Operating Expenses | 14 | \$1,361,097 | \$1,009,995 | \$2,371,092 | \$1,278,411 | \$1,113,985 | \$2,392,396 | (\$82,686) | \$103,990 | \$21,304 |

CHAPTER 28E AGREEMENT

BETWEEN THE CITY OF OSKALOOSA, IOWA, AND THE OSKALOOSA MUNICIPAL WATER BOARD OF TRUSTEES

This Chapter 28E Agreement (the "Agreement") dated as of _____, 2015, is between the City of Oskaloosa, Iowa, a municipal corporation (the "CITY"), whose address is 220 S. Market Street, Oskaloosa, Iowa 52577, and Oskaloosa Municipal Water Department and the Oskaloosa Municipal Water Board of Trustees ("OMWD"), whose address is 1208 South 7th Street, Oskaloosa, Iowa 52577; together "Parties."

RECITALS

WHEREAS, CITY is the owner of a municipal wastewater collection, treatment and disposal system, which system includes sanitary sewer and storm water, as described in Exhibit A to this Agreement (the "Facilities"); and

WHEREAS, OMWD is a municipal water utility established and operating in the City of Oskaloosa, Iowa pursuant to Chapter 388 of the Iowa Code and other applicable statutes; and

WHEREAS, CITY desires to engage OMWD to operate and maintain the Facilities on behalf of CITY and OMWD desires to accept such engagement, all upon the terms and conditions hereafter set forth; and

WHEREAS, City and OMWD each have powers, capabilities and facilities that can be further shared to support their respective needs on a mutually beneficial basis in the public interest, and OMWD and City have now determined that it would be in the best interest of each of them for OMWD to serve wastewater customers as well as water customers within the City directly and

otherwise operate the wastewater system serving City and any surrounding areas that City currently serves, or has the right to serve; and

WHEREASE, CITY and OMWD are authorized by law to enter into this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties agree as follows:

Joint Exercise of Powers Under
Chapter 28E of the Code of Iowa

Pursuant to Chapter 28E of the Code of Iowa, the parties state that the purpose of this Agreement is to coordinate the exercise of the respective powers of the City and the OMWD regarding wastewater service in and around City, together with related billing services. The Agreement shall also be deemed a contract for services under Section 384.84(8)(a), Code of Iowa.

During the term hereof, OMWD shall serve wastewater customers located in the City, and all surrounding areas that City has a right to serve, now existing or hereafter arising during the Term of this Agreement, including those areas which the City has a right to serve under its agreements with other governmental entities (the "City Service Territory"). Such customers shall be considered the direct customers of OMWD. OMWD's services shall be provided pursuant to the authority of Chapter 388, Code of Iowa, Section 364.4, Code of Iowa, and Section 384.84(8)(a), Code of Iowa. OMWD shall also provide joint utility billing service pursuant to Section 384.84(8)(b), Code of Iowa, as provided herein.

City authorizes OMWD to exercise all of City's powers to serve wastewater customers within the City Service Territory, including, but not limited to, the power to provide service; to expand and improve availability of service; to maintain, to replace, to service and to build sewer

and wastewater treatment facilities; to bill and collect for connection and service; to impose fees, liens and charges for nonpayment of service; and to discontinue service in the event of nonpayment or other delinquency with respect to the combined service accounts as herein provided. City further authorizes OMWD to submit joint bills for water service and wastewater service, together with bills for other city enterprise services, to the extent requested by City.

This Agreement shall be effective, after its approval and execution by both parties and it's filing with the Secretary of State, on July 1, 2015, (the "Effective Date").

No separate entity is created hereby. The administrators of this Agreement shall be the City Manager of the City and the General Manager of the OMWD.

No joint property shall be acquired, held or disposed of hereunder. Each party shall at all times hold and own its respective properties, before and after termination. Except as otherwise set out herein, each party shall be solely authorized to supervise, direct, and manage its own activities and the activities of its respective employees and agents hereunder. Except as otherwise set out herein, each party shall retain sole responsibility and liability for its own acts and omissions hereunder and for the acts and omissions of its respective employees and agents hereunder, specifically city employees performing wastewater services.

ARTICLE I - SCOPE OF SERVICES

1.1 Commencing on July 1, 2015, or such other date mutually acceptable in writing to OMWD and CITY (the "Effective Date"), OMWD will provide all routine operation and maintenance of CITY's Facilities on a seven (7) day per week basis within the design capacity of the Facilities as described in Exhibit A to this Agreement ("Description of Facilities"). The routine operation and maintenance services to be provided by OMWD are further described in Exhibit B of this Agreement.

1.2 Commencing with the Effective Date of this Agreement, OMWD shall implement its standard operating procedures. Within one hundred eighty (180) days after the Effective Date of this Agreement, OMWD shall place into operation preventive maintenance and process control programs, including documentation of operation and maintenance procedures conducted for the wastewater utility system and a written analysis of the condition of all equipment in the Facilities together with a prioritized list of needed repairs. Such records shall be available for inspection by CITY at all reasonable times.

1.3 Using the CITY wastewater system staff who are employed by the City as of the date of this Agreement for as long as such staff is employed by the CITY, OMWD will be responsible to perform operation and maintenance of the Facilities on behalf and within approved budget parameters of CITY. At such time as each CITY staff member is no longer available, OMWD will be responsible for providing the necessary and qualified OMWD staff within approved budget parameters of CITY. Staffing of Facilities shall accommodate on call, twenty-four hours per day, seven days per week, for emergency situations. The CITY will be responsible for all actual expenses associated with the operation, maintenance and repair to the facility. Personnel expenses initially incurred by OMWD to perform operation and maintenance of the Facilities will be recovered from CITY as outlined in Section 4.1 of this Agreement.

1.4 OMWD shall comply with CITY's procurement policy for expenditures necessary to preserve, operate and maintain the Facilities. OMWD shall comply with public purchasing requirements as stated in the Code of Iowa as well as the requirements outlined in CITY's adopted procurement policy. CITY shall maintain final authority on all expenditures to preserve, operate and maintain the Facilities.

1.5 OMWD and CITY agree that two elected officials from the Mayor and City Council, as

well as the Oskaloosa City Manager shall attend OMWD board meetings for the purpose of providing advice on water and sewer operational and capital planning efforts managed by OMWD. The CITY representatives shall be ex-officio representatives, and will participate during OMWD meetings as if they are part of the OMWD board, less any official voting authority. The CITY representatives and OMWD shall be committed to identifying and developing operational and capital planning best practices, shared service opportunities, the creation of performance measurement standards, and other items that enhance the effectiveness and efficiency of water and sewer service delivery by OMWD.

1.6 OMWD shall advise CITY and serve as CITY's liaison to regulatory agencies and industrial users in matters related to the operation of the Facilities. However, OMWD will not act as, or provide, legal counsel in this capacity.

1.7 OMWD will supervise all regulatory compliance and facilitate financial transactions pertaining to the day-to-day operation of the Facilities on behalf of CITY. Subject to the limitations of this Section, OMWD shall operate the Facilities in compliance with local, state and federal regulatory requirements. In no event shall OMWD be responsible for the payment of state or federal fines imposed or damages, attorney fees, and court costs awarded as a result of actions, inactions, process upsets or violations which occurred prior to or existed on the Effective Date of this Agreement, and which are not due solely to the negligence of OMWD, nor shall OMWD be responsible for payment of any fines, penalties, damages or attorney's fees resulting from requirements not expressly assumed by OMWD herein, including any reporting requirements.

1.8 OMWD shall exercise the due care in performing its obligations and duties under this Agreement which is normally and reasonably provided with respect to similar contract services.

1.9 OMWD will provide and maintain at all times during the term of this Agreement the following minimum insurance coverage:

(a) Statutory Workers' Compensation Insurance in compliance with the laws of the state of Iowa which has jurisdiction of OMWD employees engaged in the performance of services hereunder; together with Employers Liability coverage in the amount of \$500,000 for each incident;

(b) General liability coverage of at least \$1,000,000 per occurrence and \$2,000,000 aggregate, for bodily injury and property damage with CITY named as additional insured;

(c) Umbrella liability coverage of at least \$4,000,000 is provided in addition to the statutory workman's compensation requirement, basic general liability or auto liability coverage noted above.

City shall be a named insured. OMWD will furnish CITY with Certificates of Insurance as evidence that policies providing the required coverage and limits are in full force and effect. Such policies shall provide that no less than thirty (30) days' advance notice of cancellation, termination or alteration shall be sent directly to OMWD and CITY.

ARTICLE II - RESPONSIBILITIES OF CITY

2.1 As part of this Agreement CITY agrees to assume the following responsibilities:

(a) CITY shall maintain in full force and effect, in accordance with their respective terms, all guarantees, warranties, easements, permits, licenses and other similar

approvals and consents received or granted to CITY as owner of all Facilities and component parts thereof;

(b) CITY shall be responsible for all capital replacement and maintenance/repair expenditures (except for the labor provided by OMWD) that CITY determines necessary and required, provided that OMWD will first be consulted for justification and need;

(c) CITY shall be responsible for filing, obtaining, and maintaining the current NPDES permit for discharge of wastewater; and for filing all required reports under the Emergency Planning and Community Right-To-Know Act or any other statute or authority; provided, however, OMWD shall assist CITY with preparing these filings prior to required filing dates and deadlines. OMWD shall provide ongoing assistance regarding the maintenance of these permits for CITY;

(d) CITY shall at all times provide access to the Facilities for OMWD, its agents and employees;

(e) CITY shall provide OMWD the use of all existing equipment owned by CITY, necessary for the operation and maintenance of the Facilities;

(f) CITY shall be responsible for all fines imposed for process upsets and violations of discharge limits attributable to the operation and maintenance of the Facilities to the extent set forth in Section 1.7 as well as fines imposed for failure to report as required by Section 2.1(c).;

(g) CITY shall designate the Oskaloosa City Manager to act as a primary liaison with

OMWD in connection with the performance of services by OMWD under this Agreement; the Oskaloosa Public Works Director or City Engineer shall act as a secondary liaison with OWMD; and

(h) CITY shall bear all costs incurred as a result of regulatory requirements not in effect on the Effective Date of this Agreement.

2.2 CITY shall maintain in full force and effect all existing policies of property and general liability insurance pertaining to the Facilities. CITY shall furnish OMWD with Certificates of Insurance as evidence that such policies are in full force and effect under such policies. Such policies shall provide that no less than thirty (30) days advance notice of cancellation, termination or alteration shall be sent directly to OMWD and CITY.

2.3 To the extent allowed by law, CITY shall indemnify and hold OMWD, its officers, employees and agents, harmless under this Agreement for any and all claims, damages, costs or expenses caused by malfunction or failure of the Facilities or any components thereof or other liability or loss including injury, death, or damages to any person or property related in any way to the performance of this Agreement to the extent such claims, damages, costs, expenses, liability or loss are caused by the negligent acts, errors or omissions of CITY. Additionally, to the extent allowed by law, CITY shall indemnify OMWD, its officers, employees and agents harmless for any and all fines, penalties, attorney's fees and damages resulting from CITY's failure to comply with permitting, reporting or other statutory or regulatory requirements which are the responsibility of the CITY. This provision shall survive the termination of this Agreement.

ARTICLE III - RESPONSIBILITIES OF OMWD

3.1 OMWD shall indemnify and hold CITY, its officers, employees and agents, harmless under this Agreement for all claims, damages, costs or expenses caused by malfunction or failure

of the Facilities or any components thereof or other liability or loss including injury, death, or damages to any person or property related in any way to the performance of this Agreement to the extent such claims, damages, costs, expenses, liability or loss are caused by the negligent acts, errors or omissions of OMWD. This provision shall survive the termination of this Agreement.

ARTICLE IV - COMPENSATION

4.1 As compensation for services rendered by OMWD pursuant to this Agreement, CITY shall pay to OMWD the sum of \$_____ per month during the first twelve (12) months of this Agreement, commencing with the Effective Date. The monthly payment shall be due and payable on the _____ day of the month in which services are to be rendered. All other compensation to OMWD is due upon receipt of OMWD's invoice and payable within thirty (30) days of the date of the invoice.

4.2 The monthly compensation provided in Section 4.1 shall be reviewed quarterly and adjusted upon the adoption or amendment of the city's budget, or no less than on July 1st of each year, beginning on July 1, 2016. The basis for the annual adjustment shall be the change projected or actual expenses to provide CITY with services contemplated in this Agreement such as labor or maintenance/repair. Any proposed adjustments to the monthly billing amount shall require approval of the CITY as part of the annual budget adoption or amendment process.

ARTICLE V - TERM OF AGREEMENT

5.1 This Agreement shall remain in full force and effect for five (5) years from the Effective Date. The Agreement shall be automatically renewed for successive terms of one (1) year each unless written notice of cancellation is given by either party to the other no less than ninety (90) days prior to the date of expiration of the then current period.

ARTICLE VI - TERMINATION

6.1 This Agreement may be terminated by either party in the event of the other party's breach of a material term of the Agreement, by the first party's giving written notice of such breach and the second party's failure to correct within thirty (30) days of receipt of such notice.

6.2 OMWD shall not be in breach under this Agreement for its failure to perform its obligations under this Agreement, to the extent that the performance of such obligations is prevented or delayed by any event which is beyond the reasonable control of OMWD, including but not limited to Acts of God, strikes, labor disputes, and unavailability of parts. In the event OMWD claims that its performance is prevented or delayed by any such event, OMWD will promptly notify CITY of that fact and the circumstances preventing or delaying its performance.

6.3 This Agreement may be mutually terminated by the Parties if the following occurs:

- (a) Written recommendation for mutual termination is provided to the Parties by the OMWD and CITY ex-officio members, including the Oskaloosa City Manager;
- (b) Resolution for mutual termination is passed by a majority vote of OMWD; and
- (c) Resolution for mutual termination is passed by a supermajority vote of CITY.

In the event the Agreement is mutually terminated, OMWD and CITY ex-officio members, including the Oskaloosa City Manager shall be charged with creating a utility services transition plan to be implemented prior to termination of this Agreement. The utility services transition plan shall outline how water and wastewater services outlined in this Agreement will be provided in an alternative manner as to limit or eliminate potential interruptions of, and increase of, cost of services provided to the public.

ARTICLE VII - MISCELLANEOUS

7.1 Any temporary or portable equipment which is provided by OMWD during the term of this Agreement and which is not deemed part of the Facilities shall remain the property of OMWD upon termination of this Agreement. Joint capital expenditures by CITY and OMWD may occur from time to time. In the event a joint purchase item is disposed or the Agreement is terminated, the proceeds of the disposed item shall be equally distributed in the same manner as it was acquired. In the event of a termination or non-renewal, CITY reserves the right to purchase OMWD's share of any purchase that was made jointly by taking current market value of the item and compensating OMWD its proportionate share. An emergency exists when expenditures are necessary to continue operation of CITY's Facilities or to provide for public health, safety or environmental protection. If there is an emergency, OMWD shall provide CITY with verbal notice of the need for the capital replacement expenditure as soon as possible and proceed in accordance with Section 1.4 of this Agreement.

7.2 This Agreement represents the entire agreement of the Parties and may only be modified or amended in writing, signed by the Parties.

7.3 Written notices required to be given under this Agreement shall be deemed given when hand-delivered or mailed by overnight mail to OMWD, Attention: Board of Trustees, and to CITY, Attention: City Clerk, at the addresses set forth for each in the opening paragraph of this Agreement.

7.4 This Agreement shall be governed by, and construed in accordance with, the laws of the state of Iowa.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first above written.

OSKALOOSA MUNICIPAL WATER DEPARTMENT

CITY OF OSKALOOSA, IOWA

Board Chair

Mayor

Attest: _____

Attest: _____
City Clerk

EXHIBIT A

Description of Facilities

For purposes of this Agreement, the following water/wastewater utility components are included:

1. **WASTEWATER SYSTEM:** The actual contract would include a description of the wastewater collection system and treatment plant (trickling filter).

EXHIBIT B

Services to be Provided by OMWD

Except as otherwise provided in the Agreement, and subject to the limitations set forth therein, OMWD shall provide the following services to CITY in connection with the Facilities:

1. Provide the personnel necessary to safely manage, operate, and maintain the CITY's wastewater collection system (including the lift stations) and treatment facilities (activated sludge and trickling filter plants) to achieve optimum performance and to maintain equipment for system integrity, within the CITY's budgeted resources and EPA and DNR standards.
2. Provide the personnel necessary to manage, operate and maintain the Oskaloosa Food Products Corporation pretreatment facility (SBR plant) in the event an agreement is reached between the industry and the CITY requiring daily facility management.
3. Provide technical training to the wastewater operators on treatment process, preventive maintenance techniques, and safety awareness, including the continuing education units (CEU's) necessary for the operating personnel to maintain their licenses.
4. Monitor, sample, analyze, and report as required by the Iowa Department of Natural Resources (IDNR) with respect to the NPDES permit #6273001 issued on 11/15/2002 and #6273002 issued on 11/21/2002 for wastewater treatment. For the testing required by the NPDES permit (both influent and effluent CBOD, TSS, ammonia, pH, settleable solids, DO, temperature, toxicity, chlorine, alkalinity, volatile acids, MLSS, coliform, nitrogen, phosphorus), OMWD shall collect samples and perform tests on-site depending on available equipment with the CITY being responsible for the cost of the

equipment and supplies. For any additional testing required by the regulatory agencies but not part of the current NPDES permit, OMWD shall notify CITY, collect the samples and perform the testing. If an outside laboratory is needed, the CITY shall be responsible for the cost of shipping the samples along with the cost of the laboratory analysis. The same terms shall apply to any new NPDES permit(s) issued by the IDNR for the CITY.

5. Serve as liaison between the CITY and the DNR and the federal EPA in matters relating to compliance with water quality and discharge requirements, and other liaison activities, as required.
6. Complete the transfer of sludge from the industrial treatment plant to the CITY's plant, as needed, using the CITY's equipment, and complete the disposal of the sludge from the CITY's wastewater treatment plant to the approved disposal sites; prepare billing for services provided as outlined in the Oskaloosa Municipal Code.
7. Implement the use of a comprehensive, preventative maintenance program in an attempt to ensure the projected life expectancy of plant equipment, and will enforce existing equipment warranties and guarantees, and maintain all warranties on any new equipment purchased after the effective date of this Agreement.
8. Coordinate any repairs to the collection system on behalf of the CITY in compliance with state and local procurement rules using approved contractors or in-house staff. All work shall comply with local, state and federal rules and regulations (e.g. permitting, environmental). OMWD shall ensure repair work its contractor shall also be responsible for the replacement and resurfacing of all streets or private property, with the CITY being responsible for its own expenses and those of its contractor.

9. Complete all sewer and storm water line locates of the portions of the system owned by the CITY and requested by the Iowa One Call System. Any fees necessary for the CITY to participate in this program shall remain the responsibility of the CITY. In addition, OMWD will inspect all new sewer taps of the CITY's interceptor lines.
10. Develop, implement and complete, using the CITY's equipment, a wastewater collection system cleaning program approved by the CITY, and maintain adequate records of the work completed. The program shall be designed to televise and clean the entire system one time over the life of this Agreement as well as more frequent cleaning of any identified trouble areas or as requested by CITY. OMWD will also respond to any reports of blocked lines and will attempt to clean them. If the CITY's equipment is not capable of removing any blockage, a contractor will be called to assist. The collected information shall become the property of the CITY.
11. Develop, implement and complete, using the CITY's equipment, a storm water system inspection and cleaning program approved by the CITY, and maintain adequate records of the work completed. The program shall be designed to televise and clean the entire system one time over the life of this Agreement as well as more frequent cleaning of any identified trouble areas or as requested by CITY. OMWD will also respond to any reports of blocked lines and will attempt to clean them. If the CITY's equipment is not capable of removing any blockage, a contractor will be called to assist. The collected information shall become the property of the CITY.
12. Implement a manhole inspection and mapping program by inspecting as many manholes as can be located within the first two years of this Agreement. All data will be documented and made available for inspection by the CITY. The collected information shall become the property of the CITY.

13. Maintain cleanliness of process equipment and building, and general appearance of all buildings and grounds, and will conduct operations such that nuisances of sight, sound, and odor are eliminated or minimized to the extent reasonably possible. Using the CITY's equipment, OMWD shall be responsible for mowing and snow removal at all wastewater sites.
14. Conduct annual fat, oil and grease (FOG) inspection program as required by local, state and federal regulations.
15. Conduct land sludge application and reporting on an annual basis utilizing the most cost effective and prudent means to accomplish the task – contractor assisted or with existing staff.
16. Maintain and report septage discharge at the Facilities on behalf of CITY; present septage discharge requests to the CITY for acceptance or rejection.
17. Secure and properly protect the Facilities within the limits of available security devices provided by CITY.
18. Provide a monthly and annual, written report to designated officials of the CITY, summarizing performance of the Facilities including but not limited to, production, flows, treatment compliance, major projects or accomplishments, and preventive and corrective maintenance activities for the month.
19. Comply with all applicable city, state, and federal laws, regulation, and administrative rules.

20. Use a professional manner in dealing with community groups concerned with any facet of the operation, including tours and other public relations programs.
21. Coordinate and cooperate with the CITY's engineer and contractors to facilitate the completion of any expansion or improvement to the facilities.
22. Serve as a liaison between the CITY and any new or existing major contributing industries, and provide technical assistance to the CITY in consultation to existing industries and to any new industries, in matters relating to their pretreatment process, or agreements with the CITY and DNR.
23. Provide assistance to the CITY for the following:
 - a. Five-Year Wastewater Capital Improvements Assessment and O&M Budgeting Assistance, updated annually
 - b. Inflow/Infiltration (I/I) Analysis and reduction for the Facilities
 - c. Industrial Pre-Treatment Investigation
 - d. Laboratory Quality Assurance and Quality Control (QA/QC) Program
24. Provide the necessary information to complete all forms required through the administration of the wastewater treatment and storm water management systems.
25. OMWD shall bill customers for wastewater system services in OMWD's own name. Customers shall in all respects be treated by OMWD and City following OMWD's Rules and Regulations and billing and collection practices. OMWD therefore agrees that City's consumers shall have the same rights and privileges as water consumers located within the City of Oskaloosa.

April 6, 2015

Michael Schrock Jr., City Manager
220 S. Market St.
Oskaloosa, IA 52577

Re: Legal opinion regarding sanitary sewer contract

Dear Mike:

This letter is in response to a request for a legal opinion concerning the legality of a proposal to enter into a contract with the Waterworks Board of Trustees for the management of the City's sanitary sewage system. Our opinion is that such a contract would be permissible under Iowa law. The draft of the contract should address the respective roles of the City and the Water Board to avoid any issues related to use of tax or bond monies and employment liability.

In general, the municipal utility board only has the power to act in relation to the municipal utility that the voters authorized it to operate and maintain. Iowa Code 388.2 provides that a city must subject the matter of a municipal utility management to a vote. The municipal utility then only has the powers granted to it by that vote in relation to the city-owned utility. The utility is a separate entity from the City, so it is able to contract, sue and be sued, and is a separate employing entity. Iowa Code § 388.4 (2014).

The legislature also gives the City the power "to lease . . . or dispose of. . . a sanitary sewage or storm water drainage system . . ." This means that the City does not have to handle the sanitary sewage or storm water drainage system itself. The City need not propose the question of leasing its sewage system to the voters; Iowa Code section 388.2 allows the City to lease a sanitary sewage or storm water drainage system without voter approval. Because the Utility Board is a separate contracting entity with respect to city utilities, and the sanitary sewage/storm water drainage systems are a municipal service specifically delegable by the City to a third party, the Board may contract to provide those services to City residents. The City may allocate tax revenues to the sewage/storm water drainage system utility, and either the Board must hold it in a separate account for the management of that utility, or the City must hold the funds and pay the Board a negotiated amount. *See* Iowa Code § 388.5. No portion of any other utility rate income may be used for the sewage/storm water management, and vice-versa.

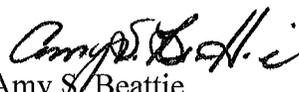
The proposal to contract with the utility to manage the city sanitary sewage system does present some practical issues that should be addressed in the management agreement. For example, the Board may not obligate the utility's facilities, paid for typically with separate bonds under particular restrictions, to the management of the City's sewage system without raising a potential issue under Simmer law amendment. The City or Water Board may want to flag that as a potential issue as they are drafting the management agreement. *See Keokuk Waterworks Co. v. Keokuk*, 224 Iowa 718, 724 (Iowa 1938).

In addition, note that city utilities are distinct employers from the City. *In re City of Evansdale and International Brotherhood of Electrical Workers*, Case No. 8399 (PERB, Jan. 23 2012). For that reason, employees or officers hired or appointed by the utility board of trustees may not be disciplined or removed by the Mayor or Council. Separate liability insurance policies covering City employees and Utility employees will need to be consulted to determine the extent of each policy's coverage. Likewise, tort liability for the operation and maintenance of the sewage system will need to be negotiated.

Ordinance changes to Chapter 13 of the Oskaloosa Code of Ordinances may be required to provide for right of entry (13.08.060), use of easements (13.08.080), or other references to "city employee" to allow a duly authorized agent of the city rights of access upon private property as necessary.

If you have any further questions or follow up concerning this matter or any other for which I may be of assistance, please do not hesitate to contact me.

Sincerely,


Amy S. Beattie