



CITY COUNCIL MEETING AGENDA
TUESDAY AUGUST 1, 2023

*****NOTE TIME CHANGE*****

CITY COUNCIL MEETING TIME: 5:30 PM

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. ******Consent Agenda******

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the July 18, 2023, Regular City Council Meeting.
- b. Approval of Accounts Payable (Batch # 1; Checks Numbered 22195-22207 and Batch # 2; Checks Numbered 22208-22214).
- c. Agriculture Preserve Renewal:
 - i. 7850 Turner Road (PID No. 28-118-24-23-0001)

5. Set Agenda – Anyone Not on the Agenda can be Placed Under Open/Misc.

6. Reports of Boards and Committees by Council and Staff.

7. Request for Proposals – City Wide Recycling Contract:

- a. The City's current recycling contract expires on December 31, 2023. The City has prepared an RFP requesting proposals for residential recycling.

8. Consider Authorization to Purchase List Station Equipment Associated with the Improvements Approved to Support the BridgeVine Subdivision.

9. Open/Misc.

10. Adjourn.

MINUTES OF A REGULAR MEETING OF
THE INDEPENDENCE CITY COUNCIL
TUESDAY, JULY 18, 2023 – 6:30 P.M.
City Hall Chambers

1. CALL TO ORDER.

Pursuant to due call and notice thereof, a regular meeting of the Independence City Council was called to order by Mayor Johnson at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE.

Mayor Johnson led the group in the Pledge of Allegiance.

3. ROLL CALL

PRESENT: Mayor Johnson and Councilors Betts, Spencer, and McCoy. Grotting attended virtual.

ABSENT: None.

STAFF: City Administrator Kaltsas, City Administrative Director Simon, and Chief Kroells

VISITORS: See attendance sheet.

4. ****CONSENT AGENDA****

All items listed under Consent Agenda are considered to be routine by Council and will be acted on by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

- a. Approval of City Council Minutes from the June 27, 2023, Regular City Council Meeting.
- b. (For Information Only) Meeting Minutes from the June 28, 2023, ABRC Meeting.
- c. Approval of Accounts Payable (Batch # 1; Checks Numbered 22148-22162, Batch # 2; Checks Numbered 22163-22179 and Batch # 3; Checks Numbered 22180-22194).
- d. Large Assembly Permit: 2171 Copeland Road on August 19, 2023.
- e. Assembly Permit: Lake Sarah Fishing Contest on July 22, 2023.
- f. 2nd Quarter Building Permit Report (For Information Only).

**Motion by Spencer, seconded by McCoy to approve the Consent Agenda. Ayes: Johnson, Betts, McCoy and Spencer. Nays: None. Absent: None. Abstain. Grotting (attended virtual, vote does not count).
MOTION DECLARED CARRIED. 4-0**

5. SET AGENDA – ANYONE NOT ON THE AGENDA CAN BE PLACED UNDER OPEN/MISC.

6. REPORTS OF BOARDS AND COMMITTEES BY COUNCIL AND STAFF

Spencer attended the following meetings:

- ABRC
- Lake Sarah Improvement Meeting
- Copeland Road site view

Grotting attended the following meetings:

- Planning Commission

McCoy attended the following meetings:

- Fire Meeting – Long Lake

Betts attended the following meetings:

- Hwy 12 Coalition Meeting

Johnson attended the following meetings:

- Sensible Land Use dinner on development
- Interview with potential Police Officer for WHPS
- Hwy 12 Coalition Meeting
- Regional Council of Mayors
- Lyndale Lutheran Church – 125th Anniversary Dinner
- LMC Economic Issues Policy Committee

Simon attended the following meetings:

- ABRC

Kaltsas attended the following meetings:

- ABRC

7. West Hennepin Public Safety Monthly Report for June 2023 – Chief Gary Kroells.

- Incidents through June 2023 – 2342 complaints
- June incidents - 339 Independence/135 Maple Plain
- WHPS is working with MNDot and Hennepin County on round about on Co Rd 92 and US Hwy 12. 16 vehicles incidents have gone up and over or through round about since November. MNDOT will do a site visit to review and look at the design and determine what the issue is.
- 2023 Night to Unite event August 1st for MP and Independence. Get together with your neighbors to talk about crime prevention and getting to know your neighbors. At this point in time, WHPS will be visiting 3 sites in Independence and 2 in MP.

8. Jon Dailing/Windsong Farm Golf Club (Applicant) and David Meyer (Owner) are requesting the following action for the properties generally located at 18 Golf Walk and 550 CSAH 92 N. (PID No.s 32-118-24-13-0001, 32-118-24-42-0001, 32-118-24-24-0001, 32-118-24-31-0002, 32-118-24-31-0001 and 32-118-24-14-0002) in the City of Independence, MN: Singular piece of property, both existing club house facility and this property.

RESOLUTION No. 23-0718-01 – *Considering a conditional use permit amendment to allow the inclusion of 550 CSAH 92 N. for storage of materials and equipment associated with the golf course.*

Applicant asking city for adding additional property to CUP for storing materials and associated equipment and grounds dept. Currently zoned AG, Guided by AG with 20 acres overall. They are currently under construction on the N side of Co Rd 6.

CUP would have 3 components.

- 1) Utilize small portion of property for outdoor storage for bulk materials. Brush, organics, mulch, sand and aggregate used on the golf course (area highlighted in blue)
 - Planning commission and public hearing, Planning commission made a recommendation they maintain a minimum of 30 ft set back of the southern property line and also work with the city to provide a landscape screen.
- 2) Indoor storage of equipment and vehicles for detached buildings. Limited to the 2 buildings identified in pink.
- 3) Utilize a portion of the property for overflow staff parking for larger events (5 annual events). This would eliminate all parking on Co Rd 6 and 92. This is the area highlighted in yellow.

Johnson – how will they get from their parking to get across the road?

Kaltsas – walk or utilize golf carts – this is employee parking only. They have adequate parking for the attendees in other areas. Asked Gary about any issues or complaints when they did this last weekend. No Issues from last weekend.

Kroells – Having this ability and not parking on the main road is a big win for safety.

Johnson – do we need to have a crosswalk or sign?

Kroells – if county was going to be involved, they would probably push it towards the intersection.

Kaltsas – Will not be crossing 6, just 92 which is a 30mph zone. Crosswalk is a good point

Betts – is the house going to continue to be rented?

Kaltsas- yes, and the tillable acreage. They are going to be allowed to use this for the areas listed for the conditions listed only.

Moved by Betts, seconded by McCoy to approve ORDINANCE 2023-0718-01 to allow planned unit developments as a conditional use in the Rural Residential Zoning District.

Ayes: Johnson, Betts, McCoy and Spencer. Nays: None. Absent: None. Abstain. None.

MOTION DECLARED CARRIED. 4-0 (Grotting attended virtual meeting)

9. James Ruehl (Applicant) and Jeffery Athmann (Owner) are requesting the following action for the property located at 6935 Pagenkopf Rd. (PID No. 15-118- 24-32-0005) in the City of Independence, MN:

RESOLUTION No. 23-0718-02 – Considering a conditional use permit to allow the construction of an accessory structure greater than 5,000 SF maximum for accessory structure.

AG, AG 35 Acres in size recently subdivided and broken up into 6 properties, part of the Pagenkopf farm. Construct horse farm (27,500 sq ft) building, which would include (1200 sq ft) living quarters and (16,500 sq ft) indoor riding arena.

Would likely complete in 2 phases. 1st phase would be the horse barn and the living quarters. 2nd phase would be arena within a 5-year time period although no current timeline on addition.

A portion of the building that is not residential is larger than 5000 sq ft. CUP is required for over 5,000 sq ft. Private horse farm, for family only. No boarding or rental. No commercial stable use. They note a future home site on this property at some point. They would need to convert residential living quarters to something that fit into current ordinance or apply for the new home, meet all applicable building setbacks. Criteria for CUP, ensure that these large buildings do not negatively impact surrounding properties.

Wetland on property, applicant did a wetland delineation. Full stormwater design is required. They must provide what watershed recommends and what city recommends. This would ensure rate of run off remains the same and that they adequately treat for water quality.

There are residential properties across the street. Lighting would have to meet applicable standards. They provided these. Manure management plan and screened from Pagenkopf. Concrete containment area. They have 6 stalls proposed in the barn but only have 2 horses. They are not looking for more than the 2 for now. Reviewed this from fire and it was recommended to provide a second access point. Screening along Pagenkopf. Planning Commission requested a landscape plan. May be necessary to add more buffer from side wall of the arena of building up against Pagenkopf. Planning Commission recommended approval with other suggestions/recommendations.

Johnson – do we have a policy on the two driveways?

Kaltsas - typically don't allow 2 driveways on a singular property this was considered with size of this property

Johnson – the activity shouldn't be seen at all from Pagenkopf since it is off the area to the back.

Betts – the arena isn't going to be put up right the way

Kaltsas – we are approving the whole site plan, but they will build in 2 phases that they could choose to change that at any time.

McCoy- Planning Commission stated no commercial use. Where does that say on resolution? Can they have horse show or riding lessons?

Kaltsas – #4 on the resolution states no commercial use. No lessons, no renting of space no boarding except for horses of their own. It could be large assembly. This CUP is solely for the size of property not use of property, but we do add that provision to cover it.

Betts – similar property on Nelson Road with less screening and closer to road.

Moved by Spencer, seconded by Betts to approve ORDINANCE 2023-0718-02 to approve ORDINANCE considering a conditional use permit to allow the construction of an accessory structure greater than 5,000 SF maximum for accessory structure.

Ayes: Johnson, Betts, McCoy and Spencer. Nays: None. Absent: None. Abstain. None.

MOTION DECLARED CARRIED. 4-0 (Grotting attended virtual meeting)

10. Request Approval of Two (2) Stipulations for Removal of House to Allow the Owners to Live in the Existing House While Constructing a New Home on the Same Property:

a. *Stipulation for Removal of House – 6465 Olstad Drive (PID No. 15-118-24-14-0011).*

b. *Stipulation for Removal of House – 1235 County Road 90 (PID No. 27-118-24-14-0007).*

Johnson turned meeting over to Spencer for this item

Kaltsas – we have 2 of these so far and get more requests. Maintain existing home while they construct a new property. City developed a stipulation for removal of house. Allows property owner to live in existing property while new property is built. We require \$5,000 escrow paid to the city but financial incentive to remove house within 90 days following substantial completion of the new home. We don't allow 2 houses on 1 property.

McCoy moved the approval seconded by Betts to approve *Two (2) Stipulations for Removal of House to Allow the Owners to Live in the Existing House While Constructing a New Home on the Same Property:*

Ayes: Betts, McCoy and Spencer. Nays: None. Absent: None. Abstain. Johnson.

MOTION DECLARED CARRIED 4-0 (Grotting attended virtual meeting)

Spencer turned meeting back over to Mayor Johnson.

11. LMCC – Discussion and Recommendation Relating to LMCC Member City Survey.

Cable summit at facilities in March. Over last 5 years we went from 1-2% decreases in funding and now it is consistently 9% decrease annually. Funding comes from Mediacom from franchise agreement through joint powers agreement from member cities. They give access to ROW,. 5% of sales revenues used to funding the LMCC. Other part is PEG (Public Education and Government Access) fee. If we are operating channels and creating programming, we can request this fee. That money can only be used to create content – equipment, producers we use. Met with exec committee – offer the cities some choices on how to move forward.

A. Fund shortfalls – numbers start small and then grow

B. Sell off building asset in Spring Park. We don't need a lot of in person use any more.

C. Close up shop at end of 2024 and return funds to member cities.

Spencer – talked at workshop. They need direction to proceed. B, C, A

McCoy – B, C, A

Betts – B, C, A

Johnson – B, C, A

Grotting – B, C, A (attended virtually)

12. Consider Changing time of August 1, 2023 City Council Meeting from 6:30 pm to 5:00 pm to facilitate attendance at Night to Unite.

Last year was 5:00. To early last year. 5:30pm for August 1st

McCoy will be out of town

Motion by Spencer, seconded by Betts to Change time of August 1, 2023 City Council Meeting from 6:30 pm to 5:30 pm to facilitate attendance at Night to Unite.

Ayes: Johnson, Betts, McCoy and Spencer. Nays: None. Absent: None. Abstain. None. (Grotting attended virtual meeting)

MOTION DECLARED CARRIED 4-0

☐ Open/Misc.

☐ Adjourn

Motion by Spencer, seconded by Betts to adjourn the City Council Meeting at 7:29pm. Ayes: Johnson, Betts, McCoy and Spencer. Nays: None. Absent: None. Abstain. None. MOTION DECLARED CARRIED. 4-0

Meeting Adjourned.

Respectfully submitted,

Carrie Solien, Recording Secretary

METROPOLITAN AGRICULTURAL PRESERVES
RESTRICTIVE COVENANT

THIS AGREEMENT, made and entered into this 24th day of July 2023, by and between
Gerald E. Fredin & Joan L. Fredin, husband & wife Record Fee Owner(s);
Contract for Deed Vendor(s) (Sellers), if any;
Contract for Deed Vendee(s) (Buyers), if any;
hereinafter collectively referred to as Landowner(s); AND the City of Independence,
Hennepin County, Minnesota,

(NOTE: Above named Landowner(s) must be identified as husband and wife, a single person, a Partnership, a (State) Corporation, a Trustee of a Trust (describe), a Guardian or Administrator of an Estate (describe) — whatever the case might be — If property is homestead — spouse must join whether their name is on record or not — if property is non-homestead and spouse doesn't join — then a statement must be put at end of legal description that it is non-homestead.)

WITNESSETH:

WHEREAS, the Landowner(s) above named are the owners of the tract of land (the Land) in the County of Hennepin, State of Minnesota, legally described as:

(IF TORRENS PROPERTY — Use description from Certificate of Title, verbatim; IF ABSTRACT PROPERTY — Use description from abstract or deed, if possible, or get it from your county auditor. Use an additional sheet if extra space is needed. Be sure to state your parcel identification number and whether or not your property is homesteaded.)

Parcel identification number: 28-118-24-23-0001

Homestead or Non-homestead
(Circle one)

Legal Description:

The Southwest quarter (SW ¼) of the Northwest quarter (NW ¼) of Section 28, Township 118, Range 24, containing 40 acres, more or less according to government survey, subject to road easement

WHEREAS, the Landowner desires to receive the benefits of participation in the State of Minnesota Metropolitan Agricultural Preserves Program established by Minn. Stat., Chapter 473H, and has made application for initiating placement of the Land into a Metropolitan agricultural preserve, a copy of which is attached hereto and incorporated herein as Attachment A; and

WHEREAS, the Land described herein is classified as agricultural pursuant to Minn. Stat., Section 273.13 and City of Independence has (have) approved and certified this Land as being eligible for designation as an agricultural preserve; a copy of the affidavit evidencing that the land is certified long-term agricultural is attached hereto and incorporated herein by reference as Attachment B;

WHEREAS, Minn. Stat., Section 473H.05, requires that the applicant complete and file as part of this application a “restrictive covenant which shall constitute an easement running with the land”;

NOW, THEREFORE, in consideration of receipt of the benefits of participation in the State of Minnesota Metropolitan Agricultural Preserves Program, the Landowner on behalf of himself, his successors and assignees, agrees and covenants as follows:

1. The Land herein described shall be kept in agricultural use. Agricultural use as that is used herein means the production for sale of livestock, dairy animals, dairy products, poultry or poultry products, fur bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, pasture and woodlands accompanying land in agricultural use shall be deemed to be in agricultural use.

AG-00869-02
Revised 1998 in accordance to
Minn. Sec. 507.093

For Individual or Husband/Wife:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____
(Print or type exact same name(s) with marital status or identity as on page 1.)

Signature of Notary Public
Commission Expires _____

For Public Officer:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____, by _____
by _____, the _____ of the _____
(Print name) (Title) (Local Authority)

Signature of Notary Public
Commission Expires _____

For Corporation:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, its _____ and _____
its _____ of _____, a _____
Corporation, on behalf of the Corporation.

Signature of Notary Public
Commission Expires _____

For Corporation:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, its _____ and _____
its _____ of _____, a _____
Corporation, on behalf of the Corporation.

Signature of Notary Public
Commission Expires _____

For Partnership:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, partner of _____ a partnership,
on behalf of the partnership.

Signature of Notary Public
Commission Expires _____

For Partnership:

State of)
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107
612-296-7686

County of) SS
)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, partner of _____ a partnership,
on behalf of the partnership.

Signature of Notary Public
Commission Expires _____

For Attorney-in-Fact:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 19_____,
by _____, as attorney-in-fact on behalf of _____

Signature of Notary Public
Commission Expires _____

For Trustee or Personal Representative:

State of)
) SS
County of)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____,
By _____ the _____ of the _____

Signature of Notary Public
Commission Expires _____

APPLICATION FOR INITIATING
PLACEMENT OF LAND INTO A
METROPOLITAN AGRICULTURAL PRESERVE

LOCAL AUTHORITY: _____ City of Independence _____ and _____
(if applicable)

1. PRINT OR TYPE NAME(S) AND ADDRESS(ES) OF RECORD FEE OWNER(S)
(Use this space only if applicable. Must be same names as on page 1.)

Gerald E. Fredin
Joan L. Fredin
7850 Turner Road,
Independence, MN 55359
- Owner(s) is ("X" one):

☐ Individual
☐ Legal Guardian
☐ Family Farm Corporation
☒ Other
(specify): husband & wife

2. PRINT OR TYPE NAME(S) AND ADDRESS(ES) OF CONTRACT FOR DEED BUYER(S) (VENDEES)
(Use this space only if applicable. Must be same names as on page 1.)

3. PRINT OR TYPE NAME(S) AND ADDRESS(ES) OF CONTRACT FOR DEED SELLER(S) (VENDORS)
(Use this space only if applicable. Must be same names as on page 1.)

4. BASIS OF ELIGIBILITY OF LAND ("X" one):
- ☒ 40 or more acres of land.
☐ Non-contiguous parcels of at least ten acres each; parcels farmed as a unit.
☐ 35-acre parcel, bound by public right-of-way or perturbation in the rectangular survey system.
☐ 20-acre parcel, subject to the conditions of Minnesota Statutes, section 473H.03, subdivision 4.

5. TOTAL ACRES: 40

6. TYPE OF PROPERTY ("X" one):

- ☒ Abstract
- ☐ Registered (*Torrens*). If "Torrens" property, include your Owner's Duplicate Certificate of Title.

FOR LOCAL AUTHORITY ONLY:

7. This application has been reviewed by this Authority and is determined complete this 24 day of July, 2023 ____.
- The restrictive covenant and the affidavit from the Authority certifying eligibility of the land are included in this application.

Amel S. i

Administrative Services Director_ of _Independence____

(Signature and Title or Position of Local Authority)

8. DATE OF PLACEMENT OF LAND INTO PRESERVE: August 24, 2023
- (Must be thirty days after the date in No. 7 above.)

ATTACHMENT B

STATE OF MINNESOTA)
)
COUNTY OF HENNEPIN) SS AFFIDAVIT OF "AUTHORITY"
)
)

I, Amber Simon, being first duly sworn upon oath deposes and says as follows:

1. I am the Administrative Services Director of the City of Independence,
(Title or Position of Local Authority)
State of Minnesota, which unit of government exercises the planning and zoning authority for the land described herein, and constitutes the "Authority" as that term is defined under Minn. Stat., Section 473H.02, Subd. 4.

2. This affidavit is being executed and submitted on behalf of the Authority.

3. The tract of land in the County of Hennepin, State of Minnesota,
legally described as *(must be same as on page 1)*:

Parcel identification number 28-118-24-23-0001 Homestead or Non-homestead
(Circle one)

Legal Description:

The Southwest quarter (SW ¼) of the Northwest quarter (NW 1/4) of Section 28, Township 118, Range 24,
containing 40 acres, more or less according to government survey, subject to road easement.

is, as of July 24, 2023, designated as long term agricultural land and in accordance with a resolution adopted by the Authority on August 1st, 2023, is certified and eligible for designation as an agricultural preserve as provided under the provisions of Minn. Stat., Section 473H.04.

4. This affidavit is submitted at the request of Gerald E. Fredin & Joan L. Fredin (Applicant)
for the purpose of making application for designation and creation of an agricultural preserve in accordance with Minn. Stat., Chapter 473H.

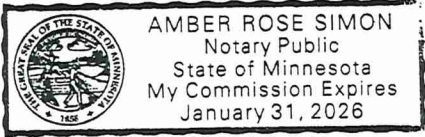
Dated July 24th, 2023.

Signature: Amber Simon
Administrative Services Director of City of Independence
(Title or Position Local Authority)

Subscribed and sworn to before me

this 24th day of July, 2023.

Amber Rose Simon
Signature of Notary Public
Commission Expires January 31, 2026



Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, Minnesota 55107

AG-00871-02
Revised 1998 in accordance to
Minn. Sec. 507.093

City of Independence

Consider Issuing Request for Proposals (RFP) for City Wide Recycling Program

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: August 1, 2023

Discussion:

The City's recycling contract will end in 2023 and the City has prepared an RFP for recycling services. The RFP will request proposals for a new three (3) year recycling contract. The City will continue to seek proposals offering single-sort recycling services on a bi-weekly basis. Proposals will be requested by September 1, 2023, in order to include within the 2024 preliminary budget adoption at the end of September.

Council Recommendation:

City Council is asked to consider approval of the RFP and authorize staff to send out and publicize.

***ATTACHMENTS:* RFP for Recycling Services for the City of Independence**

City of Independence

Request for Proposals (**RFP**) For Residential Recycling Services

August 1, 2023

1. INTRODUCTION

This request for proposals (RFP) defines the service standards, specifications and proposal requirements of the residential recycling collection program for the City of Independence, Minnesota. City of Independence shall be hereinafter referred to as the "City".

The City seeks to enter into a recycling contract with a company that has the resources and ability to provide residential recyclable materials collection services for the City.

It is the intent of the City to accept and evaluate proposals for residential recycling services including collection, processing, and marketing. The goals of the City are to maximize the fullest recovery possible of recyclable materials from all residents and to achieve the most cost-effective solution.

The City encourages Proposers to submit their best proposal possible. Proposers may alter the requirements within this RFP if proposals explicitly describe the change, rationale and price implications.

Proposers may elect to propose to include "revenue sharing" in their price formula. This proposal option is present in each of the scenarios. Proposers may also elect to not include revenue sharing such that their proposed service charges reflect a "flat fee" approach whereby the Proposer intends to keep all revenue from sale of recyclable materials.

This RFP does not imply, and should not be interpreted to imply, a proposed set of final contract terms. A final contract will be negotiated with the successful contractor. This RFP and the successful proposal will be a basis for these negotiations. The final contract shall supersede and replace this RFP and successful proposal, unless agreed to otherwise.

2. BACKGROUND

The City's current recycling contract requires single-family households to be serviced on the frequencies and schedules described in Table 1.

Table 1
Collection Frequency and Days

City	Collection Frequency	Collection Day of Week
Independence	Bi-Weekly	Friday

The current collection days for the City shall be maintained under the new Contract. Currently, the City is divided into two sections with alternate recycling weeks. The City is open to proposals that divide the City into different recycling days, but pickup service must continue to be on Fridays.

The City has its own public education program, including outreach tools such as: written literature mailed to residents and individual web pages. The public education program that describes the recycling services in the City can be found on the City's website listed in Table 2. Copies of the public education literature are available to Proposers upon request.

Table 2
Public Education Resources

City	Web Page	Flyer/ Brochure and/or Newsletter (hard copies)
Independence	www.ci.independence.mn.us	Quarterly resident newsletter

The current demographics of the City are listed in Table 3.

Table 3
Demographics

City	Population	Curbside Recycling Household Counts	Single Family Homes	Multi-Family Dwelling Units
Independence	3,778	1,394	1,394	0

3. GENERAL REQUIREMENTS FOR RESIDENTIAL COLLECTIONS

3.1 Proposer Service Requirements

The Proposer agrees to provide residential recycling services to all single-family households in the City.

3.2 Collection Vehicle Equipment Requirements

All collection vehicles used in performance of the contract shall be duly licensed and inspected by the State of Minnesota and shall operate within the weight allowed by Minnesota Statutes. Each collection vehicle shall be equipped with the following:

- a. Two-way communications device.
- b. First aid kit.
- c. An approved 2A1OBC Dry Chemical Fire Extinguisher.
- d. Warning flashers.
- e. Warning alarms to indicate movement in reverse.
- f. Signs on the rear of the vehicle which states, "**This Vehicle Makes Frequent Stops**".
- g. A broom and shovel for cleaning up spills.

All of the required equipment must be in proper working order. All vehicles must be maintained in proper working order and be as clean and free from odors as possible. All vehicles must be clearly identified on both sides with Proposer's name and telephone number.

3.3 Personnel Requirements

Proposer shall retain sufficient personnel and equipment to fulfill the requirements and specifications of the services described in this RFP. The Proposer will provide a Route Supervisor to oversee the recycling route drivers servicing the City. The Route Supervisor will be available to address customer complaints each day. The Proposer shall have on duty Monday through Friday from 7:00 a.m. to 5:00 p.m. a dispatch customer service representative to receive customer calls and route issues. The Proposer shall provide a 24-hour answering service line or device to receive customer calls. The Route Supervisor and all collection vehicles must be equipped with 2-way communication devices.

Proposer's personnel will be trained both in program operations and in customer service and insure that all personnel maintain a positive attitude with the public and in the work place and shall:

- a) Conduct themselves at all times in a courteous manner and use no abusive or foul language.
- b) Perform their duties in accordance with all existing laws and ordinances and future amendments thereto of the Federal, State of Minnesota, and local governing boards.
- c) Be clean and presentable in appearance, as so far as possible.
- d) Wear a uniform and employee identification badge or name tag.
- e) Drive in a safe and considerate manner.
- f) Manage containers in a careful manner, by picking them up, emptying their contents into the collection vehicle, and placing - not throwing or sliding - the container back in its curbside location so as to avoid spillage and littering or damage to the container.
- g) Monitor for any spillage and be responsible for cleaning up any litter or breakage.
- h) Avoid damage to property.
- i) Not perform their duties or operate vehicles while consuming alcohol or illegally using controlled substances or while under the influence of alcohol and/or such substances.
- j) Be in possession of a valid MN CDL

3.4 Point of Collection

Except for the municipal facility, all recyclable material collection service will occur at the curbside.

3.5 Recycling Container

Single-Stream Collection

Proposer shall provide containers for use in single-stream collection programs.

The Proposer will maintain an inventory of new and replacement containers and will be required to service and repair damaged containers. Proposer shall maintain sufficient cart inventory of various sizes to meet supply and demand needs for the entire term of the contract.

The standard cart size shall be approximately 60-gallons. The carts shall be uniform and consistent in color and design and have a recycling symbol and approved instruction label attached, so as to be easily identified by the resident/customer and the Proposer Driver as the container for recyclable materials collection.

Thirty and ninety-gallon carts of similar design shall be provided to residents who request a different level of service. Additional cans will be provided at no extra charge to residents who request them.

Each cart will be delivered with a package of recycling information provided by the Proposer and approved by the City explaining what and how to recycle using the single-stream method.

The Driver is required to record and report to Proposer dispatch the location of any cart that is damaged and that cart shall be repaired or replaced by the Proposer or designated subcontractor within one (1) week of the report of damage.

3.6 Collection

Single-Stream Collection

Recycling carts shall be placed by the residents at curbside on collection day, with the handle toward the house and the lid opening toward street. The Proposer shall collect from each participating household, all acceptable materials that have been prepared according to publicized procedures. The driver is required to place the emptied cart back down in the same curbside location as set by the resident. In no case is the cart to be left in the street.

The City assumes that all residents receiving single-stream curbside collection service will be collected once every two weeks.

3.7 City Retains Right to Specify Resident Preparation Instructions

The Proposer shall agree that it is the City's sole right to clearly specify the resident sorting and setout requirements. Such information shall be included in the City's annual public education flyers and web pages as well as any public education pieces distributed by the Proposer with approval from the City.

3.8 Procedure for Unacceptable Recyclable Materials

If Proposer determines that a resident has set out unacceptable or non-targeted recyclable materials, the driver shall use the following procedures:

Driver Education Tag

Proposer shall leave the non-targeted materials in the resident's curbside recycling bin and leave a City approved "education tag" indicating acceptable materials and the proper method of preparation.

Recording Addresses with Unacceptable Materials

The driver shall record the address on forms acceptable to the City. Proposer shall report the address to the City contact at the end of each collection week.

If this procedure for handling non-targeted materials is not feasible for single-stream collection systems, the Proposer must so specify and explain alternative public education system to maintain and improve quality of recyclable materials set out by residents.

3.9 Collection Hours

Proposer shall maintain sufficient equipment and personnel to assure that all collection operations commence no earlier than 7:00 a.m. and are completed by 6:00 p.m. on the scheduled collection day.

3.10 Cleanup Responsibilities

Proposer shall adequately clean up any materials spilled or blown during the course of collection and/or hauling operations. All collection vehicles shall be equipped with a broom and shovel for use in cleaning up any spills. Any unacceptable materials left behind should be secured within resident's recycling container, if provided. Driver shall take all precautions possible to prevent littering of unacceptable recyclable materials. Proposer shall have no responsibility to remove any items that are not recyclable materials.

3.1 Missed Collection Policy & Procedures

In the City's public education information, residents will be directed to call the Proposer for missed collections and other service issues.

The Proposer shall designate a staff person as an account representative for the City. A direct phone number (e.g., cellular phone, etc.) shall be provided for City staff to use for purposes of communicating immediate service needs. The Proposer shall also designate a back-up contact person, including a corresponding second, direct phone number. These Proposer phone numbers will not be published in public education literature, but rather used by City administrative staff.

The Proposer shall have a duty to pick up missed collections. Proposer agrees to pick up all missed collections on the same day that the Proposer receives notice of a missed collection, provided notice is received by Proposer before 11:00 a.m. on a business day. With respect to all notices of a missed collection received after 11:00 a.m. on a business day, Proposer agrees to pick up that missed collection before 6:00 p.m. on the business day immediately following.

Proposer shall provide staffing of a telephone-equipped office to receive missed collection complaints between the hours of 7:00 a.m. and 5:00 p.m. on weekdays, except holidays. The Proposer shall have an answering machine or voice mail system activated to receive phone calls after hours. Proposer shall keep a log of all calls, including the subject matter, the date and time received, the Proposer's response, and the date and time of response. This information shall be provided to the City in a monthly report.

3.2 Non-Completion of Collection and Extension of Collection Hours

If the Proposer determines that the collection of recyclable materials will not be completed by 6:00 p.m. on the scheduled collection day, Proposer shall notify the City's contact person by 4:00 p.m., and request an extension of the collection hours. Proposer shall inform the City of the areas not completed, the reason for non-completion, and the expected time of completion.

3.3 Severe Weather

Recycling collections may be postponed due to severe weather at the sole discretion of the Proposer. Upon postponement, collection will be made on a day agreed upon between the Proposer and the City.

3.4 Annual Recycling Calendar, Holidays

The City shall publish the yearly calendars including alternate collection days, with assistance from the Proposer. Holidays refers to any of the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and any other holidays mutually agreed to by the City and Proposer. In no instance will there be more than one holiday during a collection week. When the scheduled collection day falls on a holiday, collection for that day will be collected one day later.

3.5 Weighing of Loads

Proposer will keep accurate records consisting of an approved weight slip or electronic equivalent with the date, time, collection route, driver's identification, vehicle number, tare weight, gross weight, net weight, and number of recycling stops for each loaded vehicle.

Collection vehicles will be weighed quarterly or semi-annually to obtain a tare weight. Paper or electronic versions of each weight ticket shall be maintained on file by the Proposer for at least three years in the event of an audit by the City.

3.6 Unauthorized Collection

Only a licensed recycling hauler under contract with the City or with the property owner shall collect, remove, or dispose of recyclables after they have been set out for collection. The City's recycling Proposer's employees may not collect or scavenge through recycling in any manner that interferes with the contracted recycling services.

The Proposer shall report to the City any instances of suspected scavenging or unauthorized removal of recyclable materials from any collection containers.

3.7 Utilities

The Proposer shall be obligated to protect all public and private utilities whether occupying street or public or private property. If such utilities are damaged by reason of the Proposer's operations, under the executed contract, he/she shall repair or replace same, or failing to do so promptly, the City shall cause repairs or replacement to be made and the cost of doing so shall be deducted from payment to be made to the Proposer.

3.8 Damage to Property

The Proposer shall take all necessary precautions to protect public and private property. Except for reasonable wear and tear, the Proposer shall repair or replace any private or public property, including, but not limited to sod, mailboxes, or recycling bins, which are damaged by the Proposer. Such property damage shall be addressed for repair or replacement, at no charge to the property owner, within forty-eight (48) hours with property of the same or equivalent value at the time of the damage.

If the Proposer fails to address the repair or replacement damaged property within forty-eight (48) hours, the City may, but shall not be obligated to, repair or replace such damaged property, and the Proposer shall fully reimburse the City for any of its reasonably incurred expenses. The Proposer shall reimburse the City for any such expenses within ten (10) days of receipt of the City's invoice.

3.9 Municipal Facilities

The Proposer will provide free recycling service, at least every other week at the City's municipal building, 1920 County Road 90, Independence, MN. In general, the Proposer will provide carts (wheeled carts with lids, with approximately 64-gallons capacity) or other mutually agreed upon containers to facilitate that service. The carts shall be labeled by the Proposer with appropriate stickers to identify the acceptable recyclable commodities.

3.10 Reports

Materials Reports

The Proposer will report on a monthly and yearly basis, the following information regarding the City's recyclable materials quantities (in tons):

- Number of curbside recycling "stops" (i.e., number of households with recyclables set out at the curb) per collection (i.e., weekly or bi-weekly stop count);
- Gross amounts of materials collected, by recyclable material;
- Net amounts of materials marketed, by recyclable material;
- Amounts stored, by recyclable material, with any notes as to unusual conditions;
- Amounts of process residuals disposed
- Composition of process residuals disposed; and
- Revenue share credits back to the City (if any).

Monthly reports shall be due to the City by the 15th day of each month for material collected by the Proposer during the preceding calendar month. Annual reports to the City shall be due by the last day of January for materials received by the Proposer during the preceding calendar year.

The Proposer will be encouraged to include in its annual report recommendations for continuous improvement in the City's recycling programs (e.g., public education, reduction of non-targeted materials, etc.).

Monthly Customer Relations Report

Each month the Proposer shall provide the City with the following reports:

- A list of all customer complaints, including a description of how each complaint

was resolved.

- A list of all addresses where education tags were left for residents and why the tags were left.
- A list of all missed pick-ups reported to the Proposer.

The monthly reports shall be sent by mail, fax or e-mail to the City's contact person.

3.1 Publicity, Promotion, and Education

City- Provided Public Education

The City shall prepare and distribute recycling information to residents each year. For example, the City may produce brochures with the annual calendar of recycling collection dates, include articles in their municipal newsletters, and/or include recycling instructions on their web sites.

Proposer - Provided Public Education

The Proposer shall conduct its own promotions and public education to increase participation and improve compliance with City-specified resident preparation instructions. At a minimum, this shall include distribution of resident education tags to be left by curbside collection crews if any non-targeted material is rejected and left at the curb. The Proposer shall submit a draft of any public education literature for approval by the City, at least one (1) month before printing and distribution of any such literature.

4. MATERIALS PROCESSING AND MARKETING

4.1 Processing Facilities Must Be Specified

It is intended that all recyclable materials collected by the Proposer will go to recycling markets to be manufactured into recycled content products.

The Proposer shall assure the City that adequate recyclable material processing capacity will be provided for material collected. The proposals must clearly specify the location(s) of its recyclable materials processing facility (or subcontractor's facility) where material collected from the City will be delivered and/or processed. The Proposer shall provide written notice to the City at least 60 days in advance of any substantial change in these or subsequent plans for receiving and processing recyclable materials collected from the City.

Upon collection, the City's Proposer shall deliver the designated recyclable materials to a recyclable material processing center, an end market for sale or reuse, or to an intermediate collection center for later delivery to a processing center or end market. It is unlawful for any person to transport for disposal or to dispose of designated recyclable materials in a mixed municipal solid waste disposal facility.

Proposer shall assure that all recyclable materials collected in the City are not landfilled, composted or incinerated except for process residuals. The Proposer shall dispose of no more than 7% of material (by weight) as process residuals as part of recyclable materials processing operations. No recyclable materials will be landfilled, composted or incinerated by the Proposer without written authorization from the City and the Minnesota Pollution Control Agency / Office

of Environmental Assistance.

4.2 Lack of Adequate Market Demand

In the event that the market for a particular recyclable material ceases to exist or becomes economically depressed that it becomes economically unfeasible to continue collection, processing and marketing of that particular material, the Proposer shall give written notice to the City. The notice shall include information demonstrating the effort the Proposer has made to find market sources, and the financial information justifying the conclusion that the market is economically unfeasible. At such conclusion, the City and the Proposer will both agree in writing that it is no longer appropriate to collect such item before collection ceases.

Proposer shall pay the costs of all disposal of any item collected that is deemed not recyclable by Proposer and the City due to lack of adequate market demand. The City and Proposer shall specify a date in the said written agreement to cease collection of the recyclable material in question. Proposer shall at all times be under a duty to minimize recyclable materials ending up in landfill or incineration. If such disposal becomes necessary, Proposer shall dispose of the materials at a facility specified in writing by the City or an alternative agreed upon by the City and the Proposer.

4.3 Estimating Materials Composition as Collected

The Proposer shall conduct at least one materials composition analysis of the City's recyclable materials each year to estimate the relative amount by weight of each recyclable commodity by grade or offer a suitable alternative to a composition analysis.

4.4 Estimating Process Residuals

The Proposer shall provide the City a written description of the means to estimate process residuals derived from the City's recyclable materials. This written description shall be updated by the Proposer immediately after any significant changes to the processing facilities used by the Proposer.

4.5 Performance Monitoring

The City will monitor the performance of the Proposer against goals and performance standards required within this RFP and in the contract. Substandard performance as determined by the City will constitute non-compliance. If action to correct such substandard performance is not taken by the Proposer within 60 days after being notified by the City, the City may initiate the contract termination procedures.

5. PAYMENT AND DAMAGES

5.1 Compensation for Services

The City agrees to pay the Proposer for recycling collection services provided to the City as described in the Proposer's proposal, and made part of an executed contract, based on the number of household units certified by the City. By November 1st of each year the City will review the number of certified units and notify Proposer of any changes.

Proposer shall submit itemized bills for recycling collection services provided to the City on a monthly basis. Bills submitted shall be paid in the same manner as other claims made to the City.

5.2 Revenue Sharing

All qualified proposals shall state explicitly if the Proposer elects to participate in revenue sharing with the City. If the City awards its contract to a Proposer that elected to propose revenue sharing, and if the final contract negotiated includes revenue sharing, the Proposer shall, on a monthly basis, rebate an amount to that City based on a mutually agreed upon formula.

If a revenue sharing component is offered for any commodity, each month the Proposer shall provide adequate documentation of the revenue sharing rebate calculation, including monthly estimates of tons for all commodities, monthly index prices, margin prices, and total net revenue.

share amounts. The City understands that at times of poor market conditions, net revenues may equal zero, but shall not go negative. The City shall not be charged for net revenue sharing, only credited or neutral (e.g., \$0 per ton). i.e., the Margin Price shall serve as the effective "floor price" for net revenue by commodity.

The Proposer shall provide copies of the referenced published Index Prices with each monthly invoice statement.

The Proposers shall clearly describe their means for allocating recyclable tonnage to the City in their proposals. The Proposers shall also provide a detailed explanation of how the tonnage "split" estimates will be calculated for each commodity.

5.3 Liquidated Damages

The Proposer shall agree, in addition to any other remedies available to the City, that the City may withhold payment from the Proposer in the amounts specified below as liquidated damages for failure of the Proposer to fulfill its obligations.

The following acts or omissions shall be considered a breach of the contract:

- a) Failure to respond to legitimate service complaints within 24 hours in a reasonable and professional manner - \$50 per incident.
- b) Failure to collect properly notified missed collections (asper Section 3.11 of this RFP) - \$250 per incident.
- c) Failure to provide monthly and annual reports (as per Section 3.20 of this RFP) - \$100 per incident.
- d) Failure to complete the collections within the specified timeframes (as per Sections 3.9 and 3.12 of this RFP) - \$100 per incident
- e) Failure to clean up from spills during collection operations (as per Section 3.10 of this RFP) - \$250 per incident
- f) Failure to report on changes in location of recyclable materials processing operations - \$250 per incident.

The Proposer shall be liable for liquidated damages amount(s) upon determination of the City that performance has occurred that is not consistent with the provisions of the contract. The City shall notify Proposer in writing or electronically of each act or omission discovered by the City. It shall be the duty of the Proposer to take whatever steps or action may be necessary to remedy the cause of the complaint.

The City may deduct the full amount of any damages from any payment due to the Proposer. The remedy available to the City under this paragraph shall be in addition to all other remedies which the City may have under law or at equity.

Exceptions: For the purposes of this RFP and subsequent contract, the Proposer shall not be deemed to be liable for penalties where its inability to perform recycling collection service is the

result of conditions beyond the control of the Proposer, including but not limited to civil disorder, acts of God, inclement weather severe enough that trucks cannot safely take collections, provided however, that the Proposer shall obtain the approval for the delay from the City's contact person or their designee prior to 4:00 p.m. of the scheduled collection day.

6. INSURANCE AND OTHER LEGAL REQUIREMENTS

6.1 Insurance

Insurance secured by the Proposer shall be issued by insurance companies acceptable to the City and admitted in Minnesota. The insurance specified may be in a policy or policies of insurance, primary or excess. Such insurance shall be in force on the date of execution of the contract and shall remain continuously in force for the duration of the contract.

The Proposer must obtain the following insurance coverage with these minimum levels of coverage:

Worker's Compensation Insurance:	Statutory
Proposer's Public Liability Insurance:	\$500,000 each/person \$1,000,000 each/occurrence
Property Damage:	\$500,000 each/person \$1,000,000 each/occurrence
Automotive Insurance:	\$1,000,000 aggregate

6.2 Worker's Compensation

The Proposer shall provide evidence of Workers Compensation insurance covering all employees of the Proposer and subcontractors engaged in the performance of the contract, in accordance with the Minnesota Workers Compensation Law.

6.3 Employee Working Conditions and Respondent's Safety Procedures

The Proposer will ensure adequate working conditions and safety procedures are in place to comply with all applicable federal, state and local laws and regulations. The City reserves the right to inspect on a random basis all trucks, equipment, facilities, working conditions, training manuals, records of claims for Worker's Compensation or safety violations and standard operating procedures documents.

6.4 Equal Opportunity

During the performance of the executed contract, the Proposer, in compliance with Executive Order 11246, as amended by Executive Order 11375 and Department of Labor Regulations 41CFR, Part 60, shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Proposer shall take affirmative action to insure that applicants for employment are qualified, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin.

Such prohibition against discrimination shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or

termination, rates of pay or other forms of compensation and selection for training, including apprenticeship.

In the event of noncompliance with the non-discrimination clauses of this contract, this contract may be canceled, terminated, or suspended, in whole or part, in addition to other remedies as provided by law.

6.5 Compliance with Laws & Regulations

In providing services hereunder and in the executed contract, the Proposer shall abide by all statutes, ordinances, rules, and regulations pertaining to the provision of services to be provided hereunder. Any violation shall constitute a material breach of the executed contract.

6.6 Governing Law

The laws of the State of Minnesota shall govern all interpretations of this contract, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Hennepin, State of Minnesota, regardless of the place of business, residence or incorporation of the Proposer.

6.7 Waiver

Any waiver by either party of a breach of any provisions of the executed contract shall not affect, in any respect, the validity of the remainder of the executed contract.

6.8 Termination

The City may cancel the contract if the Proposer fails to fulfill its obligations under the contract in a proper and timely manner, or otherwise violates the terms of the contract if the default has not been cured after 90 days written notice has been provided. The City shall pay Proposer all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach. If the contract is canceled or terminated, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other materials prepared by the Proposer as specified in this RFP shall, at the option of the City, become the property of the City, and the Proposer shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents or materials prior to the termination.

6.9 Severability

The provisions of the executed contract are severable. If any portion hereof and in the executed contract is, for any reason, held by a court of competent jurisdiction, to be contrary to law, such decision shall not affect the remaining provisions of the same contract.

6.10 Accounting Standards

The Proposer agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under this contract.

6.11 Retention of Records

The Proposer shall retain all records pertinent to expenditures incurred under this contract for a period of three years after the resolution of all audit findings. Records for non-expendable property acquired with funds under this contract shall be retained for three years after final disposition of such property.

6.12 Data Practices

The Proposer agrees to comply with the Minnesota Government Data Practices Act and all other applicable state and federal laws relating to data privacy or confidentiality. The Proposer must immediately report to the City any requests from third parties for information relating to the contract. The City agrees to promptly respond to inquiries from the Proposer concerning data requests. The Proposer agrees to hold the City, its officers, and employees harmless from any claims resulting from the Proposer's unlawful disclosure or use of data protected under state and federal laws. Only the company names of Proposers submitting proposals will be made public. All proposal documents shall be held as confidential until the City Council awards a new contract and authorizes staff to execute the new contract.

6.13 Inspection of Records and Disclosure

All Proposer records with respect to any matters as specified in this RFP and subsequent contract agreements shall be made available to the City or its duly authorized agents at any time during normal business hours, as often as the City deems necessary to audit, examine and make excerpts or transcripts of all relevant data.

Any reports, information, data, etc. given to, prepared, or assembled by the Proposer under a future contract shall not be made available by the Proposer to any other person or party without the City's prior written approval. All finished or unfinished documents, data, studies, surveys, drawings, maps, photographs, and reports prepared by the Proposer shall become the property of the City upon termination of the City's contract with the Proposer.

6.14 Independent Contractor

Nothing contained in this RFP is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Proposer shall at all times remain an independent Contractor with respect to the services to be performed under this contract. Any and all employees of Proposer or other persons engaged in the performance of any work or services required by Proposer under this contract shall be considered employees or subcontractors of the Proposer only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of Minnesota or any other state, on behalf of said employees or other persons while so engaged in any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of Proposer.

6.15 Transfer of Interest

The Proposer shall not assign any interest in the contract, and shall not transfer any interest in the contract either by assignment or novation, without the prior written approval of the City. The Proposer shall not subcontract any services under this contract without prior written approval of the City. Failure to obtain such written approval by the City prior to any such assignment or subcontract shall be grounds for immediate contract termination.

6.16 Non-Assignability

The parties hereby agree that Proposer shall have no right to assign or transfer its rights and obligations without written approval from the City.

6.17 Bankruptcy

In the event the Proposer, its successors or assigns files for Bankruptcy as provided by federal law, the recycling service agreement shall be immediately deemed null and void relieving all parties of their contract rights and obligations.

6.18 Indemnification

The Proposer agrees to defend, indemnify and hold harmless the City, its officers and employees, from any liabilities, claims, damages, costs, judgments, and expenses, including attorney's fees, resulting directly or indirectly from an act or omission of the Proposer, its employees, its agents, or employees of subcontractors, in the performance of the services provided by this contract or by reason of the failure of the Contractor to fully perform, in any respect, any of its obligations under this contract. If a Contractor is a self-insured agency of the State of Minnesota, the terms and conditions of Minnesota Statute 3.732 et seq. shall apply with respect to liability bonding, insurance and liability limits. The provisions of Minnesota Statutes Chapter 466 shall apply to other political subdivisions of the State of Minnesota.

6.19 Performance & Payment Bond

Proposer shall execute and deliver to the City a Performance and Payment Bond with the corporate surety in the sum of \$25,000 or equal ("*equal*" may include a Letter of Credit from a banking institute approved by the City). The contract shall not become effective until such a bond, in a form acceptable to the City, has been delivered to the City and approved by the City Attorney.

The executed contract shall be subject to termination by the City at any time if said bond shall be cancelled or the surety thereon relieved from liability for any reason. The term of such performance bond shall be for the life of the executed contract. Extensions or renewals shall require the execution and delivery of a performance bond in the above amount to cover the period of extension or renewal.

6.20 Conflict of Interest

Proposer agrees that no member, officer, or employee of the City shall have any interest, direct or indirect, in the executed contract or the proceeds thereof. Violation of this provision shall cause the executed contract to be null and void and the Proposer will forfeit any payments to be made under the executed contract.

6.21 Entire Contract

The future executed contract supersedes all verbal agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of the executed contract shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.

6.22 Contract Conditions

The City reserves the right to waive minor irregularities in the proposal documents and to reject any or all proposals. The City reserves the right to enter into a contract with a Proposer who does not submit the lowest cost proposal.

The Proposer shall be required to execute the City's contract and to fulfill the requirements contained within it. The Bond and Certificate of Insurance shall be provided when the contract is executed.

The Proposer shall review and return signed copies of the contract within 30 days of receipt of the contract.

7. TERM OF CONTRACT

The term of the new recycling contract for the City will be a period of thirty-six (36) months from January 1, 2024, through December 31, 2026.

8. SUBMITTING PROPOSALS

8.1 Notification of Intent

Prospective Proposers interested in responding to this RFP shall notify the City in writing of their interest in proposing. Notifications of intent should be sent to: City of Independence, 1920 County Road 90, Independence, MN 55359, or email, asimon@ci.independence.mn.us.

Notifications shall include Proposer's name, title, address, phone number, e-mail address.

Notification of intent must be made by 12:00 p.m. Central Time, Friday, September 1, 2023.

8.2 Requests for Clarification

Questions, requests for clarification or requests for information about this RFP or process must be submitted in writing to the City by **4:00 p.m. Central Time, Monday, August 21, 2023**. All questions and requests for more information and the City's responses will be summarized in writing and forwarded to all other qualified Proposers prior to **4:00 p.m., Thursday, August 24, 2023**. Any other unauthorized contact with other City staff or City Council members will subject the company to disqualification from further consideration. This restriction will be in effect from the date this RFP is finalized and released through the date of final contract award (including authorization for execution) by the City Council.

8.3 Proposers May Team with Other Companies

It is recognized that some prospective haulers may wish to subcontract with other companies for processing services. This is allowed as needed, but all such Proposer-subcontractor relationships must be explicitly described in each proposal scenario. The City will contract with only one primary Contractor for the recycling services.

Multiple Proposers may team up with other complementary hauling or recycling companies provided there is no collusion. A company may be listed as a part of more than one team as long as this company submits a written certification that no collusion occurred between competing proposals.

8.4 How to Submit Proposals

Proposals shall be submitted to the City no later than **4:00 p.m. Central Time, Friday, September 1, 2023**, to be considered eligible. Proposals shall be submitted in a sealed envelope with the name of the proposing company on the outside and addressed as follows:

Enclosed: City of Independence
Attn: Recycling Service Proposals
1920 County Road 90
Independence, MN 55359

Proposals will be treated in accordance with Mn. Statutes 13.591, Subdivision 3 (b), Data Practices Act.

Proposers must include one (1) printed copy in the sealed envelope, and one emailed version to asimon@ci.independence.mn.us. The proposal file must be formatted as a .pdf or a suitably compatible alternative. Only the company names of Proposers submitting proposals will be made public. All proposal documents shall be held as confidential until the City Council awards a new contract and authorizes staff to execute the new contract.

8.5 Proposal Content

Qualified proposals must include at least the following elements:

- Statement of Proposer qualifications, including at least three references (contact names and phone numbers) of other municipal clients in the Twin Cities metropolitan region receiving similar services.
- List of Principal Officers' names, addresses and contact numbers (telephone, e-mail, fax).
- List of materials proposed to be collected and a discussion and rationale for any proposed changes to the City's standard list of recyclable materials.
- Description of operations at materials processing facility where recyclable materials will be taken including location, hours of operation and capacity.
- Description of how stop counts (i.e., amount of set-outs per collection) will be tallied.
- Description of how recyclable tonnages will be allocated to each City (e.g., a standard, assumed amount per stop, etc.).
- Description of how recyclable material "splits" by commodity will be calculated.

- Description of how process residuals amount and composition will be estimated.

8.6 Alternative Proposals

Proposers may submit alternative proposals that are different from the above RFP -specified, single stream designs. These alternative proposals must include explicit descriptions in a similar level of detail as specified within this RFP the other single-stream design scenarios and corresponding price worksheets. For example, the alternative proposals must include resident materials sorting/preparation requirements, collection frequency, cart size, cart ownership, etc.

8.7 Price Worksheet

Prospective Proposers must complete a price worksheet as part of each proposal they submit (see Attachment A for worksheet). In addition, Proposers may complete additional price worksheets if their proposed system does not fit into one of the other scenarios. Proposers may fill in the price worksheets in Attachment A or use their own format. However, the Proposer-designed price worksheets must include an equal level of detail and content.

8.8 Proposals May Be Rejected in Whole or Part

The City reserves the right to reject any or all proposals or parts of proposals, to negotiate modifications of proposals submitted, to accept part or all of the proposals on the basis of consideration(s) other than proceeds or cost, and to negotiate specific work elements with a respondent into a project of lesser or greater expense and reimbursement than described in this RFP or the respondent's reply.

8.9 RFP and Proposal to Become Part of Final Contract

The contents of this RFP, the successful proposal, and any written clarifications or modifications to the contents thereof submitted by the successful Proposer may become part of the contractual obligations and be incorporated by reference into the ensuing contract. If any provision of the contract is in conflict with the referenced RFP or proposal, the contract shall take precedent.

9. CONTRACTOR SELECTION PROCESS

9.1 Contractor Selection Process

To the best of its ability, the City will use the following process for its decision-making:

- City staff will review and analyze the details of the qualified submitted proposals. The City reserves the right to ask Proposers for additional information/clarification to better understand the proposals. City staff will recommend the top two (2) Proposers, in rank order of priority, to the City Council.
- City staff will negotiate with the top ranked Proposer. If negotiations with top-ranked Proposer are not successful, the City may then initiate negotiations with the second ranked Proposer, and so on.
- Once a draft contract has been successfully negotiated, City staff will present its recommendations to each City Council. The City Councils may then award the contract and authorize staff to execute it.

- The new recycling contract will commence on January 1, 2021.

9.2 Evaluation Criteria

The City will objectively evaluate the proposals submitted to determine the best value for the City and its residents. A comprehensive set of criteria will be used to quantify the merits of each proposal package, including (but not limited to):

- Strength of qualifications of the Proposer (together with any proposed subcontractor, if any), especially related to the particular needs of the City. Qualifications will include (but not be limited to) the proven capacities of the Proposer (and any subcontractor) to meet the operational requirements of the City.
- Comments from the Proposer's reference clients.
- Innovations proposed to increase participation and recyclable material quantities collected.
- Innovations proposed to improve public education about recycling to all residents.
- The price of the recycling services.
- Overall, net annual cost to the City
- Responsiveness of the Proposer to all other provisions of this RFP.

These evaluation criteria are not presented in any special order. No ranking of these criteria within this RFP is intended or implied. The City reserves the right to consider other criteria in their review of proposal.

Attachment A

Price Worksheets

Instructions for City of Independence RFP Price Worksheets

A price worksheet must be completed for each design scenario proposed (e.g., single stream collection, etc.). **Multiple design scenarios may be submitted.** Please feel free to make multiple copies of the price worksheets as needed.

Proposers may fill in the attached price worksheets or use their own similar format. However, the Proposer - designed price worksheets must include an equal level of detail and content.

If the Proposer proposes under any single-stream or alternate proposal design scenarios, the proposal must explicitly describe the collection service design (e.g., resident materials sorting/preparation requirements, collection frequency, cart size, cart ownership, etc.).

Proposers may propose to participate in revenue sharing with the City at the Proposers discretion. Proposers shall indicate (i.e., "Yes" or "No") if they propose to include revenue sharing. Economic evaluation of proposals will compare total, net annual costs to the City over the contract period.

The basic revenue share formula specified within this RFP can be summarized as a portion of the Proposer's materials sales revenue from sale of all paper grades, aluminum, steel/tin cans and plastic bottles. Proposers may elect to share revenue on one, two, three or all four commodities.

If revenue sharing is implemented, the six, published "Price Indexes" specified below shall be used as a means to simplify the accounting of the proposed revenue share. For all paper grades:

- All paper grades - Waste News.com adjunct commodity pricing service; www.SecondaryFiberPricing.com, Midwest/ Central Region, Grade: PS 8 - Special De-ink Quality News, high side, price per short ton, baled, last published price of the month.

For the specified rigid container commodities - Waste News.com adjunct commodity pricing service www.SecondaryMaterialsPricing.com, Chicago (Midwest/ Central):

- Metals: Steel cans (sorted, densified, \$ per ton, delivered)
 - Metals: Aluminum cans (sorted, baled, cents per pound, delivered)
 - PET Plastics Bottles: (baled, cents per pound, picked up) _(a)
 - Natural HDPE Plastics Bottles: (baled, cents per pound, picked up) _(a)
 - Colored HDPE Plastics Bottles: (baled, cents per pound, picked up) _(a)
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Note:

- (a) Plastics bottles composition of sub-grades shall be assumed to be: 50% PET, 25% Natural HDPE, 25% Colored HDPE.

If Proposers elect to share revenue with the City, the Proposers shall quote their revenue share pricing in terms of their proposed "Margin Price" for each of their proposed revenue share commodities.

The City will use the assumed tonnage and material splits in Attachment A for calculating the net revenue share back to the City from all Proposers. It is important to note that the City does not guarantee any minimum tonnage or any specific material splits. These are estimates only for purposes of this RFP and comparing the value of any revenue sharing proposals

A. Single Stream Collection Scenario:)

Proposer's company name: _____

Collection Price Proposed:

Fill in your proposed price for each City proposed recycling services under this scenario.
Fill in "NA"(not applicable) as the price for the City where the scenario does not apply under this design scenario.

\$ _____ per household per month

Revenue sharing proposed:

Does your proposal include any form of revenue sharing? Yes No

If "Yes", fill in your proposed Margin Price for one or more of the following commodities:

Proposed <u>paper</u> Margin Price:	\$ _____	per ton
Proposed <u>aluminum</u> Margin Price:	\$ _____	per pound
Proposed <u>steel cans</u> Margin Price:	\$ _____	per ton
Proposed <u>PET plastic bottles</u> Margin Price:	\$ _____	per pound
Proposed <u>natural HDPE plastic bottles</u> Margin Price:	\$ _____	per pound
Proposed <u>colored HDPE plastic bottles</u> Margin Price:	\$ _____	per pound

Note:

(1) For any single stream collection scenario, the proposal text accompanying this price worksheet must explicitly describe the collection service design (e.g., resident materials sorting/preparation requirements, collection frequency, cart size, cart ownership, etc.).

B. Alternative Collection Scenario:

Proposer's company name: _____

Collection Price Proposed:

Fill in your proposed price for each City proposed recycling services under this scenario.
Fill in "NA"(not applicable) as the price for the City where the scenario does not apply under this design scenario.

\$_____per household per month

Revenue sharing proposed:

Does your proposal include any form of revenue sharing? Yes No

If "Yes", fill in your proposed Margin Price for one or more of the following commodities:

Proposed <u>paper</u> Margin Price:	\$_____	per ton
Proposed <u>aluminum</u> Margin Price:	\$_____	per pound
Proposed <u>steel cans</u> Margin Price:	\$_____	per ton
Proposed <u>PET plastic bottles</u> Margin Price:	\$_____	per ton
Proposed <u>natural HDPE plastic bottles</u> Margin Price:	\$_____	per ton
Proposed <u>colored HDPE plastic bottles</u> Margin Price:	\$_____	per ton

Note:

For any alternative collection scenario, the proposal text accompanying this price worksheet must explicitly describe the collection service design (e.g., resident materials sorting/preparation requirements, collection frequency, cart size, cart ownership, etc.).

City of Independence

Consider Approval to Purchase Equipment Needed to Reconstruct Lift Station 50

To: City Council
From: Mark Kaltsas, City Administrator
Meeting Date: August 1, 2023

Discussion:

Following the recent final plat approval of the BridgeVine Subdivision, the City is in the process of finalizing the reconstruction of Lift Station 50. The developer of BridgeVine is constructing the new lift station as a part of their development improvements. In order for the City to be the warranty holder for certain equipment (i.e., generator, control panel, etc.) that is required to operate the new lift station, the City split out various components as separate bid items that were bid by the City (and will be purchased by the City) rather than the developer. The City's engineer, in conjunction with City staff, prepared the specifications for the items noted. The Engineer and City have reviewed the quotes and would recommend that the City approve the following:

Generator: The City received two (2) bids – Cummins and Zielger. Both meet the City's specifications. Due to the significant price difference, it is recommended that the City approve the quote from Cummins.

Cummins - \$27,135.00

Ziegler - \$37,295.00

Lift Station Equipment: The City received one (1) quote from WW Goetsch. The proposed quotation meets the City's specifications. It is recommended that the City approve the quote from WW Goetsch for the specified access hatches and accessories, pumps and accessories and the Control panel.

WW Goetsch - \$76,272

Council Recommendation:

The City required that the developer pay a Lift Station Improvement Charge to cover the costs associated with upgrading the lift station. The fee imposed directly correlates to the cost of the requisite improvements which includes the equipment noted within this report. City Council is asked to consider approval of the quotations obtained and authorize staff to approve and execute the documents required to purchase the aforementioned equipment.

ATTACHMENTS: **Quotations for Generator**
 Quotation for Lift Station Equipment

April 6, 2023

Prepared by

Collin Amundson

rk910@cummins.com

We are pleased to provide you this quotation based on your inquiry.

Item	Description	Qty
1	C36N6, 36kW, 60Hz, Standby, Natural Gas/Propane Genset, 1800rpm engine U.S. EPA, Stationary Emergency Application C36N6, 36kW, 60Hz, Standby, Natural Gas/Propane Genset, 1800rpm engine Duty Rating - Standby Power (ESP) Emissions Certification - SI, EPA, Emergency, Stationary, 40CFR60 Listing - UL 2200 NFPA 110 Type 10 Level 1 Capable Exciter/Regulator - Permanent Magnet Generator, 3 Phase Sensor Voltage - 120/240, 1 Phase, 3 Wire Alternator - 60Hz, 4L, 240/120V, 1 Phase, 105C, 40C Ambient, Increased Motor Starting (IMS) Alternator Heater, 120 Volt AC Aluminum Sound Attenuated Winter Enclosure, with Exhaust System Enclosure Color - Green, Aluminum Enclosure - Wind Load 180 MPH, ASCE7-10 Larger Battery Rack Skid base - Housing Ready Control Mounting - Right Facing Power Command 1.1 Controller Gauge - Oil Pressure Meters - AC Output Analog (kVA) Stop Switch - Emergency Signals - Auxiliary, 8 Inputs/8 Outputs Control Display Language - English Load Connection - Single Circuit Breaker, Location A, 150A, 2P, 600 Volts AC, 80%, UL Engine Governor - Electronic, Isochronous Single Gas Fuel - NG or LP Vapor Engine Starter - 12 Volt DC Motor Engine Air Cleaner - Normal Duty Battery Charging Alternator Battery Charger - 6 Amp, Regulated Engine Cooling - Radiator, High Ambient Air Temperature, Ship Fitted Shutdown - Low Coolant Level Extension - Coolant Drain Engine Coolant - 50% Antifreeze, 50% Water Mixture Coolant Heater, Extreme Cold Ambient Engine Oil Genset Warranty - 2 Years Base Literature - English Packing - Skid, Poly Bag Base Barrier - Elevated Genset Enclosure - Heater, Internal DC Powered Lights Inside Enclosure Panel, Distribution Extension - Oil Drain Green Sound Level 2 Intake Baffle - Ship Loose	1
2	Battery-Wet, 12V, Group 34, 850CCA	1
3	Service - startup & load bank	1



Project: City of Independence - Bridgevine Lift
Station (CA)

Quotation: City of Independence - Bridgevine Lift
Station Q-169013

4	Freight to Site - Offloading by Others	1
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TOTAL: \$ 27,135.00

Quote value does not include any tax.

NOTES:

Proposal is for equipment only, offloading, rigging, and installation by others.

Fuel and permits, unless listed above, is not included.

Cummins Standard Start-up and testing is included. Additional tests, such as NETA testing, if required, is by others

Coordination Study not provided.

Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Chris Hoglund

christopher.k.hoglund@cummins.com

+1 6514027180

SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

Quotation: City of Independence - Bridgevine Lift Station Q-169013

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TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the Quote, Sales Order, and/or Credit Application on the front side or attached hereto, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

SCOPE

Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. A Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated.

SHIPPING; DELIVERY; DELAYS

Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined by Cummins, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use best efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities.

AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

PAYMENT TERMS; CREDIT; RETAINAGE

Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment.

TAXES; EXEMPTIONS

Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

TITLE; RISK OF LOSS

Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

INSPECTION AND ACCEPTANCE

Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

LIEN; SECURITY AGREEMENT

Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

CANCELLATION; CHARGES

Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office 60 or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

MANUALS

Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

TRAINING; START UP SERVICES; INSTALLATION

Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

MANUFACTURER'S WARRANTY

Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the



Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

WARRANTY PROCEDURE

Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

LIMITATIONS ON WARRANTIES THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

INDEMNITY

Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY UNDER THE WARRANTY IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

DEFAULT; REMEDIES

Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

CUSTOMER REPRESENTATIONS; RELIANCE

Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

CONFIDENTIALITY

Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

GOVERNING LAW AND JURISDICTION

This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

INSURANCE

Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

ASSIGNMENT

This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

INTELLECTUAL PROPERTY

Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

PRICING

To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

MISCELLANEOUS

Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is in writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Equipment pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event of a conflict in the terms of this Agreement with any Customer terms or conditions or agreement (whether referenced in an order submitted by Customer as the terms that govern the purchase of the Equipment or otherwise) or any terms set forth in any other documentation of Customer with respect to the Equipment, the terms of this Agreement shall govern. Cummins may incur additional charges which will be passed on to the Customer, as applicable.

COMPLIANCE

Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

☐ Check if this Agreement pertains to government work or facilities

Proposal by



Proposal No. EPG042301

8050 State Highway 101
Shakopee, MN 55379
Daniel.slagle@zieglercat.com
952-887-4535

To: Bolton & Menk

Re: CATERPILLAR STANDBY GENERATOR

Attn: John Swanson

“Bridgeville Lift Station “

WE PROPOSE TO FURNISH IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS, TERMS AND CONDITIONS

<u>QUANTITY</u>	One (1) CATERPILLAR Natural Gas Generator set, mounted in exterior sound attenuated enclosure, 72dba@23' – Color “Cat White” Enclosure Load Center and Lights.
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MODEL DG35 (Natural Gas)

RATING 35 kW standby power, US EPA Certified for Standby Emergency Use

<u>BREAKER</u>	One (1) 200 amp, 2 pole
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VOLTAGE 120/240 volts, 1 phase, 60 HZ, 1800 RPM

<u>SWITCHGEAR</u>	By Others
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WARRANTY Two (2) year 1000 Hours

INTSALLATION By Others

TOTAL EQUIPMENT PRICE: \$ 37,295.00*

***Please refer to the attached Bill of Material.**

***Price does not include state or local sales and/or use taxes.**

APPROXIMATE SHIPPING DATE Available Spring 2024

F.O.B Jobsite, on truck

TERMS: Net 20 days (90% upon delivery, 10% at startup)

THIS PROPOSAL SUBJECT TO ALL PROVISIONS OF THE CONTRACT AND WARRANTY ON REVERSE SIDE

ACCEPTED:

Respectfully submitted,
ZIEGLER INC.

By *Dan Slagle*

Dan Slagle, Sales Engineer

By

Subject to approval by

APPROVED:

ZIEGLER INC.

Its

By

BILL OF MATERIAL

EPG042301

- 1 -

**EMERGENCY STANDBY GENERATOR SET, RATED 50KW STANDBY 240 VOLT, 1 PHASE,
60 HERTZ, 1800 RPM**

ENGINE SPECIFICATIONS

Meets EPA Regulations

3.6 Liter

Electronic governor

Oil filter, spin-on type

Radiator cooling system, blower fan

Water pump

12V DC starting system

Jacket water heater, 120 volt, 1500 watt

Alternator, 30 ampere, 12 VDC

Fuel system: Natural Gas

UL2200 Listed / NFPA110 compliant

STANDARD ENGINE SAFETY FEATURES

Shutdowns with individual warning lamps

- { Fail to start / over-crank
- { High coolant temperature
- { Low lube oil pressure
- { Over-speed / over voltage

GENERATOR SPECIFICATIONS

Class H insulation, rotor and stator, single bearing design

Flexible coupling

Brushless excitation

Solid-state regulator, +/- 1% regulation

One (1) 200 amp circuit breaker

GCCP 1.2 CONTROL PANEL

- Voltage (all phases) • Current (all phases)
- Power factor • kW
- KVAR
- Transfer switch status
- Engine speed
- Low fuel pressure
- Run hours
- Service reminders
- Fault history
- Oil pressure
- Coolant temperature
- Low oil pressure shutdown
- High coolant temperature shutdown
- Overvoltage / Over-speed
- Not in auto position (flashing light)
- Time & Date
- Exercise speed
- Protection
 - Fail to start shutdown

BILL OF MATERIAL

EPG042301

-2 -

Low oil pressure shutdown

Low/High battery voltage

Battery charger failure

Under-speed/Over-speed

Loss of engine speed detection □ □

- I²T function for alternator protection from line to neutral and line to line short circuits
- Emergency stop
- Programmable auto crank function
- 2 wire start for any transfer switch
- Adjustable engine speed at exerciser
- RS232 port for GenLink® control
- RS485 port remote communication
- Canbus addressable
- Governor controller and voltage regulator are built into the master control board
- Temperature range -40 °C to 70 °C

AUTOMATIC TRANSFER SWITCH:

By Others

ANCILLARY EQUIPMENT

Sound Attenuated Outdoor Enclosure 72dB @ 23'

Load Center

Battery charger, 10 ampere, float type, generator mounted

Battery, with battery rack and cables

Fuel flex connector – shipped loose

Remote Annunciator Panel – shipped loose

PROJECT MANAGEMENT SERVICES

Submittal drawings

Dimensional drawings

Electrical schematics

Product specifications

Prototype testing

Production testing

Technical assistance - coordinated through project manager

Jobsite startup by Ziegler technician

2 Hour Load Test

Onsite Training

Operation and maintenance manuals

Engine, generator

Warranty, Two (2) years 1000 hours

COMMENTS AND CLARIFICATIONS

Electrical and mechanical installation not included

Crane/rigging not included

Delivery to jobsite by Ziegler CAT

Concrete pad not included

NOTES

Ziegler limits the scope of supply for this quotation to the equipment and services listed.

BILL OF MATERIAL

EPG042301

-3 -

Equipment not listed is assumed to be provided by others.

Ziegler cannot provide air emission permits for customers.

We will provide emission information on the Caterpillar engine to the owner to aid in the permitting process.

Orders are subject to re-stocking charges if cancelled after release for production.

State and local permits for fire, air, fuel tanks or building permits are not included and provided by others.

Start-up labor is to be performed during normal business hours, Monday through Friday 7:30 am to 4:00 pm. Training is to be performed at the end of start-up. Additional trips or delays required or requested due to contractor delay and/or issues with equipment not provided from Ziegler Power Systems will be billed at published field service rates.

Terms:

- Extension of contract beyond term must be at the mutual agreement of the parties.
- Ziegler Inc. shall not be liable for consequential damages or damages beyond our control.
- This quotation is subject to availability at time of order
- Customer is responsible for adequate site conditions and security.
- Customer is responsible for scheduled maintenance and fuel costs.
- Customer must provide adequate insurance to cover equipment damage or loss.
- Price(s) do not include state or local sales and/or use taxes.
- Quotation is valid for 30 days.

PROVISIONS OF THE CONTRACT AND WARRANTY

The prices quoted are current and are subject to change to those in effect at the time of shipment. Caterpillar products are sold subject to the terms of the applicable Caterpillar warranty. Copies of the warranties applicable to this purchase are attached hereto, and the purchaser by signing this order acknowledges receipt of the Caterpillar warranties on Forms.

The Purchaser agrees to pay any and all taxes, assessments, licenses, and government charges of every kind and nature whatsoever upon said equipment which may be imposed or assessed against or resulting to the Seller on account of the possession or use of said equipment by Purchaser. All provisions hereof are contingent upon government restrictions, strikes, accidents, delays of carrier and other delays unavoidable and beyond Seller's control.

It is intended and understood that title and ownership of said equipment is and shall remain vested in the Seller, notwithstanding delivery or possession, until the entire price is paid in full.

TERMS

By purchasing or financing the equipment listed on page 1 (collectively, "Products"), Purchaser hereby agrees to the preceding and following terms (collectively, "Terms"). Seller rejects any terms submitted by Purchaser not contained herein. Purchaser may issue a purchase order or similar document for administrative purposes only, and any terms in any such document are rejected, not binding, and are of no force or effect.

1. ACCEPTANCE. All sales are subject to availability of Products. The prices quoted are subject to change to those in effect at the time of shipment. In its sole discretion, Seller may accept or reject this Agreement and will not be required to give any reason for rejection. For purposes hereof, "Agreement" means, collectively, page 1 attached hereto, the Bill of Material, and the Terms.

2. ORDER CANCELLATION. Purchaser may suspend or cancel an order only upon written approval from Seller, such approval not to be unreasonably withheld, conditioned, or delayed. If Purchaser cancels, in whole or in part, Purchaser shall pay Seller the reasonable costs and expenses (including all commitments to suppliers and subcontractors) for all direct or indirect expenses incurred by Seller prior to receiving Purchaser's cancellation notice. In addition, a cancellation fee of 15% of the Total Price Package as identified on the first page shall be paid by Purchaser. For orders identified as Custom Orders on the first page, Purchaser shall be responsible for payment of a cancellation fee equal to the Total Price Package.

3. PERMITS. Purchaser is solely responsible for obtaining any applicable federal, state or local permits, licenses, franchises, approvals, authorizations, registrations, certificates, and similar rights (collectively, "Permits") necessary for the ownership and operation of Products, including, but not limited to, fire, air, fuel tanks or building permits. Seller will not obtain or provide any Permits, including, but not limited to, air emission permits, for or on behalf of Purchaser.

4. EXCLUSIONS. Unless otherwise stated on page 1, Purchaser is solely responsible for: (1) adequate site conditions and security, (2) off-loading and placement of Products, including, but not limited to, rigging, crane, or other equipment for removal from delivery truck or placement on pad, (3) mechanical and electrical installation, (4) arc-flash study or similar engineering requirements, (5) scheduled maintenance and fuel costs, including initial fuel fill or fuel testing, (6) pad or enclosure, (7) removal or disposal of existing equipment, and (8) any and all other equipment or services not expressly listed on the Bill of Material attached hereto.

5. SERVICES. Unless otherwise stated on page 1, any Services shall be performed during normal business hours of Seller, meaning Monday through Friday, 7:30am to 4:00pm. Additional trips or delays required or requested due to Purchaser delay or issues with services or equipment not provided from Seller will be billed at published field rates.

6. PAYMENT. Purchaser shall pay Seller the compensation described on page 1, plus expenses as outlined in this Agreement. Unless specifically stated otherwise in this Agreement, payment terms are NET 20 from the date of invoice. Unless prohibited by law, failure to make timely payments shall result in default and a late fee of 1.5% per month (18% annual), which will be assessed on all past due amounts until paid in full. Any payments made will first be applied toward the late fee, then toward the past amount due. Seller reserves the right to discontinue any or all Services, or terminate this Agreement in whole or in part, at Seller's sole discretion, without notice, upon Purchaser's failure to pay or comply with payment requirements. All amounts due under this Agreement shall be paid in full without any setoff, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. CHANGES. Seller shall supply the Products and/or Services within the scope described in this Agreement. If changes are needed or additional Products and/or Services are requested by Purchaser, Seller and Purchaser will discuss the additional Products and/or Services, and the amount of Seller's compensation will be equitably adjusted. A verbal commitment or authorization by

Purchaser to purchase Products and/or perform Services outside of the initial scope will be binding on Purchaser and will entitle Seller to additional compensation. Any Product orders and/or Services performed outside of the original scope at the direction of the Purchaser will be deemed to be included under this Agreement.

8. TAXES. Purchaser agrees to pay all taxes, assessments, licenses, and governmental charges of any kind resulting on account of Purchaser's purchase, possession, or use of Products or Services, except as otherwise provided in Section 24.

9. FINANCING. If Purchaser finances Products, Seller's acceptance of this Agreement is subject to the approval of Seller's or Purchaser's lender, and Purchaser shall sign any security agreement and financing statement required by such lender.

10. ADDITIONAL DOCUMENTATION. On Seller's request, Purchaser shall, at its sole expense, sign and deliver all such further documents and instruments, and take all such further acts, necessary to give full effect to this Agreement or otherwise required by Seller. If Purchaser fails to sign and deliver such documents or instruments to Seller, the entire balance for the Products sold and Services performed under this Agreement will, upon Seller's tender of performance and at Seller's option, become immediately due and payable.

11. SECURITY INTEREST. To secure Purchaser's prompt and complete payment of any present and future indebtedness of Purchaser to Seller under this Agreement, or any document or instrument signed in connection with this Agreement, Purchaser hereby grants Seller a security interest in Products, wherever located, whether now existing or hereafter arising from time to time, and all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. Purchaser acknowledges that the security interest granted under this Section 11 is a purchase-money security interest under applicable law. Seller may file a financing statement to perfect the security interest, and Purchaser shall sign any statements or other documents necessary to perfect Seller's security interest. Purchaser also authorizes Seller to sign, on Purchaser's behalf, statements or other documentation necessary to perfect Seller's security interest. Seller may exercise all rights and remedies of a secured party under applicable law.

12. TITLE AND RISK OF LOSS; DELIVERY. Title and risk of loss to Products passes to Purchaser upon Delivery. "Delivery" occurs upon Seller's delivery of the Products to the carrier.

13. SHIPMENT. Unless otherwise specified on page 1, Products will be shipped to Purchaser's address set forth on page 1 via carriers selected by Seller. Seller shall not be liable for any delays, loss or damage in transit.

14. INDEMNIFICATION. Purchaser shall indemnify Seller, and their respective officers, directors, partners, members, shareholders, employees, agents, affiliates, subsidiaries, successors, and permitted assigns, against any losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees) for death, personal injury, or damage to property to the proportionate extent the same have been proximately caused by the negligence or willful misconduct of, or breach of this Agreement by, Purchaser or its officers, directors, employees, or agents. Subject to the limitations set forth in this Agreement, Seller will indemnify Purchaser and its respective officers, directors, employees, agents, assigns and successors, against any losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees) for death, personal injury, or damage to property to the proportionate extent the same have been proximately caused by the negligence or willful misconduct of, or breach of this Agreement by, Seller or its officers, directors, employees, or agents, in the performance and furnishing of the Services.

15. **INSURANCE.** Upon Delivery, and at all times thereafter while there is any balance due under this Agreement, Purchaser shall, at its own expense, have and keep Products insured against loss by fire, theft, collision, vandalism, and any other hazard as Seller may require by an insurance company acceptable to Seller and in an amount no less than the balance due under or in connection with this Agreement. On Seller's request, Purchaser shall provide Seller with a Certificate of Insurance from Purchaser's insurer evidencing the coverages specified in this Section 15. Purchaser shall provide Seller with 10 business days' advance notice in the event of cancellation or a material change in any of its policies. Seller will maintain in full force and effect throughout the term of this Agreement the following forms of insurance: (a) worker's compensation and occupational disease insurance within statutory limits; (b) commercial general liability insurance, including products and completed operations, contractual liability, and personal injury, written on an occurrence basis, with limits not less than a combined single limit per occurrence of \$1,000,000 and \$2,000,000 general aggregate for bodily injury and property damage; \$1,000,000 aggregate for products/completed operations; and \$1,000,000 per person for personal injury/advertising injury; (c) automobile liability insurance for vehicles owned or operated by Seller, its employees or agents, with combined bodily injury and property damage limits of liability of no less than \$1,000,000 per occurrence; and (d) excess liability insurance over that required in items (a), (b) and (c) above, under the umbrella form, with a limit of liability of no less than \$1,000,000 each occurrence. Upon written request, Seller will provide to Purchaser a Certificate of Insurance evidencing Seller's compliance with such insurance requirements. All such policies will be maintained in full force and effect during the term of this Agreement, and will not be permitted to lapse, or be canceled, altered or amended without prior written notice having been furnished to Purchaser.

16. **BILL AND HOLD.** If Purchaser requests to be billed prior to Delivery, in its sole determination, notwithstanding any provisions to the contrary herein, Purchaser assumes all risk of ownership and liability for Products as of the date of the invoice, including insuring Products in accordance with Section 15. Purchaser shall indemnify, hold harmless, and defend Seller and its parent, officers, directors, partners, members, shareholders, employees, agents, affiliates, successors, and permitted assigns against any loss or damage to Products between the invoice date and the date and time of Delivery. In this instance, Purchaser acknowledges, other than Delivery, the transaction with respect to Products is complete, and there are no outstanding obligations preventing Delivery.

17. **DAMAGES; MAXIMUM LIABILITY.** IN NO EVENT WILL SELLER BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, ENHANCED, INDIRECT, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION OF VALUE, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR PRODUCTS OR SERVICES, REGARDLESS OF: (A) WHETHER THE DAMAGES WERE FORESEEABLE; (B) WHETHER OR NOT SELLER WAS ADVISED OF THE POSSIBILITY OF DAMAGES; AND (C) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) ON WHICH THE CLAIM IS BASED. IN NO EVENT SHALL SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR PRODUCTS OR SERVICES, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT, OR OTHERWISE, EXCEED \$500,000 OR THE TOTAL OF THE AMOUNTS PAID TO SELLER UNDER THIS AGREEMENT, WHICHEVER IS LESS. THE FOREGOING LIMITATIONS APPLY EVEN IF PURCHASER'S REMEDIES UNDER THIS AGREEMENT FAIL THEIR ESSENTIAL PURPOSE.

18. **LIMITED WARRANTY.** New Products are subject to a limited warranty ("Limited Warranty") as provided by the manufacturer,

which will either be included in a written warranty statement with the Product or the manufacturer's standard limited warranty in force when the Product is delivered to Purchaser. A Limited Warranty extends only to parts or attachments sold by manufacturer, and Purchaser's failure to follow warranty conditions may result in voiding the Limited Warranty. Neither manufacturer nor Seller will be responsible for any other warranty. All used Products are sold "as is with all faults," and no warranty. Services performed by Seller are subject to Seller's Service Department Labor Warranty, as it exists from time to time, and available upon request.

19. **WARRANTY LIMITATIONS.** Notwithstanding the provisions of Section 18, a Limited Warranty does not apply where Products: (a) are subjected to abuse, misuse, neglect, negligence, accident, improper testing, improper installation, improper handling, abnormal physical stress, abnormal environmental conditions, or use contrary to any instructions issued by Seller or manufacturer; (b) have been reconstructed, repaired, or altered by any persons other than Seller or its authorized representative; or (c) have been used with any third-party product, hardware, or product that has not been previously approved in writing by Seller. Notwithstanding anything in this Agreement to the contrary, Seller's liability under any Limited Warranty is discharged, in Seller's sole discretion and at its expense, by repairing or replacing any defective Products, or crediting or refunding the price of any defective Products, less any applicable discounts, rebates, or credits.

20. **WARRANTY DISCLAIMER.** EXCEPT FOR THE LIMITED WARRANTY AND SELLER'S SERVICE DEPARTMENT LABOR WARRANTY SET FORTH IN SECTION 18, NEITHER SELLER NOR ANY PERSON ON SELLER'S BEHALF HAS MADE OR MAKES ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WHETHER ARISING BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE, ARE EXPRESSLY DISCLAIMED. PURCHASER ACKNOWLEDGES IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY SELLER, OR ANY OTHER PERSON ON SELLER'S BEHALF.

21. **DATA AND PRIVACY.** Seller and its partners, affiliates, subsidiaries, and third parties, including, but not limited to, manufacturers, dealers, and service providers (collectively, "Seller Parties"), collect and share information relating to products, services, and customers as detailed in Seller's Privacy Statement located at www.zieglercat.com/privacy as well as applicable manufacturers' statements, which are hereby incorporated into this Agreement by this reference. Manufacturers' statements may be updated at any time without notice. Products equipped with telematics or other tools, applications, or devices to assess information, such as machine locations, operating hours, health of equipment, and basic utilization (collectively, "Telematics"), whether manufactured by Caterpillar or by other companies, collect and transmit information to Seller Parties with a legitimate business reason to access the information, including, but not limited to, providing services and support, developing new products and services, personalizing user experiences, improving products, or compliance with legal obligations. Purchaser understands that Telematics may have been activated on Products by Seller or the manufacturer, and may be subject to or required by specific manufacturer user agreements available to Purchaser upon request. Purchaser consents to the collection, use, storage, processing, sharing, and disclosure of such information by Seller Parties in accordance with this Agreement, Seller's Privacy Statement, and applicable manufacturers' statements.

22. **INTELLECTUAL PROPERTY.** All intellectual property rights in the Products, including patents, trademarks, internet domain names, works of authorship, expressions, designs, and design

registrations, whether are not copyrightable, trade secrets, and all other intellectual property rights related to or associated with Products (collectively, "Intellectual Property") are the sole and exclusive property of manufacturer. Purchaser will not acquire any ownership interest in any Intellectual Property under this Agreement. If Purchaser acquires any Intellectual Property rights in or relating to any Products by operation of law or otherwise, these rights are deemed and are hereby irrevocably assigned to manufacturer or its licensors, as the case may be, without further action by either party.

23. **CONFIDENTIALITY.** Purchaser shall not disclose or otherwise make available to any other person or entity, or use other than in connection with performance of this Agreement, the contents of this Agreement or any other documents, data or information previously delivered or to be delivered to the other party in connection herewith, except as such disclosure may be required by governmental or regulatory authorities. Information may be divulged to other parties upon prior written consent from Seller.

24. **INDEPENDENT CONTRACTOR.** The parties agree that Purchaser and Seller will be independent contractors, and neither Seller nor its employees will be considered employees of Purchaser. It is understood and agreed that nothing herein is intended nor shall be construed to create an employer/employee, partnership, or joint venture relationship between Purchaser and Seller. Purchaser will not deduct from any payment to Seller hereunder any income tax, FICA payments, or any other expenses, unless required by law. Payment of federal income tax, FICA payments and state income taxes relating to Seller's employees or its income are the responsibility of Seller. Purchaser agrees and acknowledges that neither it nor any of its employees, agents or representatives has any right or authorization, express or implied, to act for Seller or incur, assume or create any obligation, responsibility, or liability on behalf of Seller or make any representations or warranties concerning Seller, Products, or Services in the name of or on behalf of Seller or bind Seller in any manner whatsoever.

25. **ENTIRE AGREEMENT; AMENDMENT.** Purchaser may not revoke its purchase of Products. An order will not be binding upon Seller until it is accepted in writing by an authorized representative of Seller. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, written and oral, regarding such subject matter. No modification of this Agreement is effective unless it is in writing and signed by each party.

26. **FORCE MAJEURE.** Seller will not be liable to Purchaser, and will not be deemed to have breached this Agreement, for any failure or delay in performing any term of this Agreement, to the extent the failure or delay is caused by or results from acts beyond Seller's control, including acts of God, flood, fire, earthquake, explosion, war, invasion, hostilities, terrorist threats or acts, cyber-attacks, riot or other civil unrest, requirements of law, embargoes or blockades, actions by any governmental authority, national or regional emergencies, epidemics or pandemics, labor stoppages or slowdowns or other industrial disturbances, delays in manufacture, supply shortages, or shortages of adequate power or transportation facilities (collectively, "Force Majeure Events"). Any Force Majeure Event that has an adverse effect on Seller's ability to perform will

absolve Seller from any liability to Purchaser.

27. **ASSIGNMENT.** This Agreement shall not be assignable by either party without the prior written consent of the other party, provided that Seller may use subcontractors to perform portions of the Services at Seller's sole discretion. Except as otherwise provided, this Agreement shall be binding upon and inure to the benefit of the parties' successors and lawful assigns.

28. **NOTICES.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified first-class mail, postage prepaid, or commercial overnight delivery service to the address listed above for the party to whom notice is to be given, and shall be effective upon delivery if hand-delivered, three (3) days after mailing, if mailed, or one (1) day after delivery to a commercial overnight delivery service.

29. **WAIVER.** No waiver of any provisions of this Agreement will be deemed a waiver of any other provisions, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

30. **SEVERABILITY.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement shall remain in full force and effect and will in no way be affected, impaired or invalidated.

31. **DISPUTES.** Purchaser shall pay Seller's legal fees, court costs, and any other costs of recovery incurred in enforcing the terms of this Agreement. This Agreement is governed by and to be construed in accordance with the laws of the State of Minnesota, without regard to its principles of conflicts of law. If legal action is brought to enforce this Agreement, the Federal District Court of Minnesota (4th Division) or Hennepin County District Court (4th Judicial District) will be the exclusive jurisdiction and venue for said action unless Seller, in its sole discretion, commences proceedings in a different jurisdiction or venue.

32. **UCC.** All terms used but not defined in this Agreement that are defined in the Minnesota Uniform Commercial Code, as amended from time to time (the "UCC"), have the meanings set forth in the UCC, and such meanings will automatically change at the time any amendment to the UCC, which changes such meanings, becomes effective.

33. **COUNTERPARTS.** This Agreement may be separately signed by Seller and Purchaser in any number of counterparts, each of which, when signed and delivered, will be deemed to be an original, and all of which will constitute the same Agreement.

34. **ELECTRONIC SIGNATURES.** Purchaser agrees that the Electronic Signatures (whether digital or encrypted) included in this Agreement are intended to authenticate this writing and have the same effect as manual signatures. "Electronic Signature" means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a person with the intent to sign the record, including facsimile or email electronic records, in accordance with the Uniform Electronic Transactions Act, Minnesota Statutes 325L.01–325L.19, as amended from time to time. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

WWGOETSCH

ASSOCIATES, INC.

800-831-7914

5250 WEST 74TH STREET
MINNEAPOLIS, MN 55439-2226
952-831-4340/FAX: 952-831-2357

7674 COLLEGE ROAD SUITE 105
BAXTER, MN 56425-7865
218-829-6890/FAX: 218-829-6972

April 13, 2023

Bolton & Menk
Attn: John Swanson

Subject: Independence, MN – Bridgevine Lift Station (L-50) Project No. OC1127735

We respectfully submit our quotation for the following equipment.

LIFT STATION EQUIPMENT

- 2 - Hydromatic model HVH200 submersible grinder pumps with 2 hp, 3500 rpm, 1/60/230 volt motors
- 2 - 2" Discharge elbows and sealing flange assemblies
- 2 - Stainless steel intermediate guide rail support brackets
- 2 - Stainless steel lower and upper guide rail support brackets
- 4 - Stainless steel guide pipe
- 2 - Stainless steel lifting chains
- 2 - Stainless steel cable racks with J-hooks
- 1 - Halliday Products model H1W 30" X 48" H-20 load rated aluminum access hatch with safety grate for wetwell
- 1 - Halliday Products model H1W 30" X 30" H-20 load rated aluminum access hatch with safety grate for valve vault
- 1 - Lift station control panel, NEMA 3R 2 door stainless steel enclosure 42h x 60w x 12d,
Inner doors
- Enclosure SS legs and skirts with louvers 18"
- Incoming power terminal block
- Main breaker /Manual Transfer sw. with interlock 200 amp (SE rating)
- Auto-Transfer sw. 200 amp 2 pole open transition
- Power TVSS 70K
- Pump circuit breakers (2)
- Control circuit breakers (4)
- Hand-Off-Auto switches, oil tight, 30 mm (2)
- Pushbutton switches, oil tight 30mm (2)
- Lamps, LED, oil tight, 30mm (12)
- Condensation heater/fans, 400 watt
- Starters (2)
- Power monitor
- Relays
- GFI receptacle rated at 15 amps
- External alarm strobe
- Generator receptacle 100 amp
- Control power TVSS
- Uninterruptible power supply (UPS)
- Allen-Bradley Micrologix 1400
- Backup float controller
- Operator interface Cmore 7" color
- Elapsed time meters (3)
- RTU outlet
- Floats (2)
- Float weight kit
- Submersible transmitter
- Magnetic Flowmeter
- Door switches (Security)
- Seal fail/Thermal pump modules
- Ventilation Fan and Filters SS hoods
- Alarm Monitoring System (Wright/Hennepin)
- Programming, training, Submittals and Documentation, Testing and commissioning, Start-up service/training, documentation and equipment adjustment is included as specified.

Items not included,
Concrete pad, Hand holes, Meter sockets/Cold sequence disconnects, Grounding materials,
Underground warning tape, Installation of panel, Conduit, Permits, Antenna Poles/Mast, Site Lamp Fixtures

Your cost F.O.B factory with freight prepaid and allowed to jobsite\$76,272.00

*WE HAVE NOT INCLUDED ANY PIPING, VALVES OR ANY OTHER MATERIALS NOT MENTIONED ABOVE.

We have not included any applicable taxes.

Prices are firm for 60 days.

Terms are net 30 days after shipment.

Shipment is estimated as follows after submittal approval ;

- Access hatches 12 weeks
- Pumps and accessories 8 -10 weeks
- Control panel TBD.

Your consideration and order will be appreciated.

Sincerely,

Bryan Goehring