

**EAST RANGE WATER BOARD**  
**Regular Meeting**  
**Wednesday, April 17, 2024**  
**City/Town Government Center**  
**4:30 P.M.**

*Appointed Board Members for City of Aurora: Doug Gregor, Chairman of the Board; David Skelton; Dennis Schubbe;*

*Appointed Board Members for the Town of White: Jon Skelton, Vice Chairman of the Board; Clark Niemi;*

*Other Team Members: Luke Heikkila (COA); Kimberly Berens (COA); Jodi Knaus (TOW); Jim Gentilini (COA); Joshua Stier (Bolton & Menk); Mia Thibodeau (Fryberger Law); Shannon Sweeney (David Drown Associates);*

**AGENDA**

1. Call to Order/Roll Call
2. Consent Agenda:
  - a. Approval of March 20, 2024 Regular Meeting Minutes
  - b. Treasurer's Report: Interim Financing: \$141,918.56 Biwabik Fund: \$72,132.56; Total Balance: \$214,051.12
  - c. Approval of Disbursements
    1. Bolten & Menk - \$32,195.00
    2. Fryberger Law - \$4,095.45
  - d. Correspondence
    1. March 22, 2024 Copy of Letter sent to Miles Jensen, SEH
3. Legal Matters –Updates Including but not limited to:
  - a. Scenic Acres Land & Facility Title Clearance Status – Authorization letter sent to Mia by Township
  - b. Creation of New Legal Entity Timeline & Guidance – Tabled to end of Project;
  - c. St. Louis County Lease Status – MMB Checklist – Authorize payment of lease
4. Guests – Robert Rutka – Scenic Acres Resident
5. Engineering Updates – Bolton & Menk – April 11, 2024 Status Report
  - a. Funding Initiatives & Cumulative Accounting
    1. Lobbying Trip to St. Paul Update
    2. Project Financing Report
    3. Create Administrative Committee
  - b. Engineering Work
    1. Technical Committee Report
      - a. Scenic Acres Water Connection Update – Rosa Easement Amendment
    2. Appropriations Permit – DNR Review Status
    3. Federal Environmental Review Status
    4. Project Certification
    5. Contingency Agreement Status
    6. Project Permits
    7. Project Schedule
6. Community Outreach
7. Other Business
  - a. St. James Pit & Current Water Plant updates – Jim Gentilini
8. Next Meeting Date: Wednesday, May 15, 2024 4:30 P.M.
9. Adjournment

# EAST RANGE WATER BOARD

## Monthly Meeting Minutes

Thursday, March 20, 2024

City/Town Government Center

4:30 P.M.

*Appointed Board Members for City of Aurora:* Doug Gregor, Chairman of the Board; David Skelton; Dennis Schubbe;

*Appointed Board Members for the Town of White:* Jon Skelton, Vice Chairman of the Board; Clark Niemi;

*Other Team Members:* Luke Heikkila (COA); Kimberly Berens (COA); Jim Gentilini (COA); Joshua Stier (Bolton & Menk); Mia Thibodeau (Fryberger Law); Richard Hess (COA Councilor)

1. A board meeting was called to order by Chairman Gregor at 4:31 PM

2. Consent Agenda

- a. Approve February 11, 2024 Regular meeting minutes
- b. Approve February 14, 2024 Special meeting Minutes
- c. Approve February 28, 2024 Special Meeting Minutes
- d. Approve Treasurer's Report - Fund Balance: \$250,535.35
- e. Approve Disbursements - \$11,342.50

**MOTION BY CLARK NIEMI, SUPPORTED BY DAVE SKELTON TO ACCEPT THE CONSENT AGENDA AS PRESENTED.**

**MOTION CARRIES**

3. Legal matters

- a. Scenic Acres Land and Facility Title Clearance Status - Jon Skelton will send a notice to Jodi to direct Fryberger to transfer title interests to the Town
- b. Creation of New Legal Entity Timeline & Guidance – Tabled to end of Project;
- c. Resolution 2024-002 Authorizing City as Fiscal Agent (tabled from last month – new version reviewed by Mia)

**MOTION BY DENNIS SCHUBBE, SUPPORTED BY JON SKELTON TO APPROVE RESOLUTION 2024-002 INCLUDING EDITS BY LEGAL COUNCIL**

**MOTION CARRIES**

- d. St. Louis County Lease Amendments checklist & other land status updates
- e. Construction Management Phase Discussion – Expectations & Approval of Construction Management Agreement for Professional Services with Bolton & Menk – Enclosed

**MOTION BY CLARK NIEMI, SUPPORTED BY DAVE SKELTON TO APPROVE THE BOLTON & MENK MANAGEMENT CONTRACT SUBJECT TO SUGGESTED EDITS BY LEGAL COUNCIL AND THE CHAIR AND CO-CHAIR FINAL DISCUSSIONS.**

**MOTION CARRIES**

- f. Approval of Construction Phase Assistance Professional Services Agreement with SEH – enclosed

**MOTION BY DOUG GREGOR, SUPPORTED BY DAVE SKELTON TO APPROVE AGREEMENT WITH SEH FOR PROFESSIONAL SERVICES WITH SUGGESTED EDITS BY LEGAL COUNCIL TO TRANSFER REQUESTED DATA FROM SEH TO BOLTON & MENK AT A COST NOT TO EXCEED \$2,000.**

**MOTION CARRIES**

4. Guests – No Requests

5. Engineering Updates – Bolton & Menk

- a. Funding Initiatives & Cumulative Accounting

- i. Notice of award from EPA and agreement
    - ii. Gregor update on Testimony before House Economic Development Committee or WIF Financing & PFA Meeting updates
    - iii. Affordability Rate Reset
  - b. Engineering Work – March 2024 – Bolton & Menk 3/14/2024 Project Updates Letter
    - i. Contract Ratification with Magney
    - ii. Contract Ratification with Utility Systems of America
    - iii. Technical Committee Report
    - iv. Appropriation’s Permit – DNR Review status on-going per Josh
    - v. Federal Environmental Review Status
    - vi. Project Certification
    - vii. Contingency Agreement Status
    - viii. Project Permits
    - ix. Project Schedule
6. Community Outreach – Bolton & Menk Communication Plan Enclosed; potential community meeting as soon as mid-April. Bolton & Menk will plan and pull this meeting together.
7. Other Business
  - a. St. James Pit & Current water plant updates – Jim Gentilini; pumping continues; currently at a level where pumping was stopped in the spring of 2023.
  - b. Hoyt Lakes Facility Plan update – invite to next board meeting

**Moved by Dave Skelton, supported by Jon Skelton for Doug Gregor to extend open invitation to Hoyt Lakes to attend all future meetings of the ERWB**

**Motion carries**
8. Next Meeting Date: Wednesday April 17, 2024 at 4:30 pm
9. Adjournment

**Motion by Clark Niemi, supported by Jon Skelton, to adjourn at 6:01 PM**

**Motion carries**

ERWB - Interim Financing

Revenue

	DATE	INVOICE #	VENDOR	DESCRIPTION	
<b>Beginning Balance</b>	7/22/2021		First Independent Bank	Interim Financing	\$ 1,000,410.00
<i>Ending Balance</i>					<u>\$ 1,000,410.00</u>

Disbursements

	DATE	INVOICE #	VENDOR	DESCRIPTION	
	1/31/2024		Employee Wages, FICA, & Medicare	Janaury 2024	\$ 64.60
	2/28/2024		Insurance Premium		\$ 1,250.00
	2/28/2024		Employee Wages. Fica, & Medicare	February 2024	\$ 129.18
	3/11/2024	11707.000016.12403	Fryberger, Buchanan, Smith & Frederick	Property Acquisition	\$ 3,466.25
	3/14/2024	22438.000005.12403	Fryberger, Buchanan, Smith & Frederick	Easement Agreement	\$ 2,988.75
	3/14/2024	22438.000003.12403	Fryberger, Buchanan, Smith & Frederick	County Lease	\$ 967.50
	3/14/2024	22438.000000.12403	Fryberger, Buchanan, Smith & Frederick	Real Estate Matters	\$ 2,670.00
	3/25/2024	332679	Bolton & Menk	Construction Services	\$ 32,195.00
	4/10/2024	22438.000006.12404	Fryberger, Buchanan, Smith & Frederick	Construction Services	\$ 4,095.45
	3/31/2024		Employee Wages. Fica, & Medicare	March 2024	\$ 193.78
<i>Total Disbursements</i>					<u>\$ 858,491.44</u>
<b>Ending Balance</b>	as of 04.16.2024				<u>\$ 141,918.56</u>
<b>Biwabik Fund</b>	<i>beginning balance 10.21.2021</i>				<u>\$ 129,839.79</u>

DATE	INVOICE #	VENDOR	DESCRIPTION	
1/1/2022		First Independent Bank - Russell	Interest Payment	\$ 6,198.62
6/1/2022		First Independent Bank - Russell	Interest Payment	\$ 7,017.30
1/1/2023		First Independent Bank - Russell	Interest Payment	\$ 7,017.00
6/1/2023		First Independent Bank - Russell	Interest Payment	\$ 7,017.00
4/1/2023	22438.000000.12303	Fryberger, Buchanan, Smith & Frederick	Legal Matter	\$ 3,159.41
12/1/2023		First Independent Bank - Russell	Interest Payment	\$ 7,017.00
11/15/2023		Missing invoices from original tracking	SEH, Mesabi Bituminous, Costin, Building Rescue	\$ 20,280.90

Biwabik Fund ending balance as of 04.16.2024 \$ 72,132.56

**TOTAL ENDING BALANCE Biwabik and Interim Financing combined as of 04.16.2024** **\$ 214,051.12**



RECEIVED

MAR 05 2024

CITY OF AURORA

Please Remit To: Bolton & Menk, Inc.  
1960 Premier Drive | Mankato, MN 56001-5900  
507-625-4171 | 507-625-4177 (fax)

Payment by Credit Card Available Online at [www.Bolton-Menk.com](http://www.Bolton-Menk.com)  
To Ensure Proper Credit, Provide Invoice Numbers with Payment

East Range Water Board  
Luke Heikkila, City of Aurora, City Administrator  
16 West 2nd Avenue North  
Aurora, MN 55705

March 25, 2024  
Project No: 0M2.133785  
Invoice No: 0332679  
Client Account: EASTRANG\_WT\_MN

East Range Water Board/Water Supply

Construction Services

Professional Services from February 17, 2024 to March 15, 2024

Construction Services Water Treatment (001)

Professional Services

	Hours	Amount	
Principal	47.50	9,865.00	
Practice Expert	11.50	3,484.50	
Administrative	4.00	469.00	
Senior Project Manager	35.50	6,603.00	
Specialist	4.50	837.00	
Design Engineer	7.50	1,245.00	
Senior Technician	7.00	1,197.00	
Technician	10.50	1,354.50	
<b>Totals</b>	<b>128.00</b>	<b>25,055.00</b>	
<b>Total Labor</b>			<b>25,055.00</b>
	<b>Total this Task</b>		<b>\$25,055.00</b>

Construction Services - Watermain (002)

Professional Services

	Hours	Amount	
Principal	26.50	4,929.00	
Administrative	15.00	1,515.00	
Specialist	5.50	696.00	
<b>Totals</b>	<b>47.00</b>	<b>7,140.00</b>	
<b>Total Labor</b>			<b>7,140.00</b>
	<b>Total this Task</b>		<b>\$7,140.00</b>
	<b>Total this Invoice</b>		<b>\$32,195.00</b>

Bolton & Menk, Inc. is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. 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. 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 parties also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (25 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

Notice: A Finance charge of 1.5% per month (annual percentage of 18%) is charged on balances 30 days or over.

# FRYBERGER

LAW FIRM

fryberger.com

P.O. Box 16990  
Duluth, Minnesota 55816

RECEIVED

APR 15 2024

CITY OF AURORA

## INVOICE

Phone: (218) 722-0861  
Fax: (218) 725-6800

EAST RANGE WATER BOARD  
16 WEST SECOND AVENUE NORTH  
PO BOX 160  
AURORA MN 55705

April 10, 2024  
Invoice No. 22438.000006.12404  
File No. 22438.000006 - MET

For Legal Services Rendered Through 3/31/2024

CLIENT: EAST RANGE WATER BOARD  
MATTER: CONSTRUCTION CONTRACTS

### Professional Fees

Date	Description	Atty	Hours
03/01/24	Consider issue re: resolution authorizing Aurora to act on behalf of board	CMC	0.20
03/04/24	Review and revise resolution; call re same.	MET	1.50
03/13/24	Draft Resolution re: Board authorizing Aurora to act on its behalf	CMC	1.50
03/14/24	Draft and edit Resolution re: Board authorizing Aurora to act on its behalf	CMC	1.20
03/14/24	Revise resolutions; begin review of engineering contracts.	MET	2.30
03/19/24	Review of engineer agreements.	MET	3.25
03/19/24	Work on review of proposed contract documents. Correspondence with client re additional documents needed.	MHH	1.20
03/20/24	Work on contract review. Correspondence with client and consultants re the same.	MHH	2.60
03/20/24	Finalize comments on contracts; review agenda action items; attend meeting.	MET	3.10
	Sub Total		<u>4,550.50</u>
	Discount Authorized by Managing Attorney		-455.05
	<b>Total Professional Fees</b>		<u><b>\$4,095.45</b></u>

SUB TOTAL	\$	4,550.50
Discount Authorized by Managing Attorney of 10% of Total Fees		-455.05
Current Invoice Amount Due After Services Discount	\$	<u>4,095.45</u>
Prior Balance:		0.00
Payments & Adjustments:		-0.00
Total Due:	\$	<u>4,095.45</u>

Pay your bill online at [www.fryberger.com](http://www.fryberger.com) <<http://www.fryberger.com>>

Current (Less than 30)	30-59 Days	60-89 Days	90-119 Days	Over 120 Days	Total Amount Due
\$4,095.45	\$0.00	\$0.00	\$0.00	\$0.00	\$4,095.45

**Please Note:** When your legal matter is completed, your file is closed and placed in storage. Closed files are placed on a schedule for destruction. While we make an attempt to contact you at the time your file is scheduled for destruction, we are not always successful. If you want to keep your file, you should request in writing that your file be returned to you at the time your matter is completed.

## Jodi Knaus

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**From:** Doug Gregor <gregor@ci.aurora.mn.us>  
**Sent:** Friday, March 22, 2024 2:49 PM  
**To:** Miles Jensen  
**Cc:** Lucas Heikkila; Mia Thibodeau (mthibodeau@fryberger.com); Jon Skelton; Jodi Knaus  
**Subject:** Water Project Request for Engineering Data  
**Attachments:** 2024-02-22 Ltr to SEH Requesting Data.pdf

**Caution:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Miles: In response to our discussion yesterday about your concerns regarding the proposed edits to your firm's proposed contract, the Project team decided at this time to limit the issue to simply requesting your firm to make available the data that is urgently needed to enable the Project to move forward – leaving to a later date the negotiation of terms for the potential on-going Project service needs from SEH for additional records or staff expertise. Consequently, the City has prepared the attached data request letter that has been deposited in the mail this afternoon. Hopefully your project team will be able to supply that data and information in a prompt manner.

As regards the proposed edits to the potential future service contractor services from SEH, Mia asked me to note that the comparable terms in the proposed professional services contract with Bolton & Menk that is awaiting execution reflect the same edits to the comparable topics in their contract. The LMC has advised municipalities to alter the standard terms in the "General Conditions of the Agreement for Professional Services" template form and other similar professional service contract provisions, to reflect the separate situations of public entities as opposed to private entities that are contracting for similar professional services. We can discuss those less urgent matters more fully in the days ahead.

Thank you for your consideration of this matter.

Doug

Douglas Gregor  
Mayor, City of Aurora  
Chair, East Range Water Board  
P.O. Box 160  
Aurora, MN 55705  
Cell: 218-750-0714  
Email: [gregor@ci.aurora.mn.us](mailto:gregor@ci.aurora.mn.us)





Tel: (218) 229-2614  
Fax: (218) 229-3198

16 W. 2ND AVE. N. • P.O. BOX 160 • AURORA, MN 55705

www.aurora-mn.com

March 22, 2024

Miles Jensen  
Regional Practice Center Leader  
Short Elliott Hendrickson, Inc.  
615 9TH Street North  
Virginia, Minnesota 55792-3761

Re: East Range Joint Water Project: Requested Data and Documents

Dear Miles:

As discussed briefly by phone and more extensively in correspondence, the City is requesting data that was prepared by your firm in regard to the East Range Joint Water project (the "**Project**"). The data being requested at this time by the City is described in the attachment document ("**Requested Documents**"). Of central importance to this issue is the fact that your firm entered into an Agreement for Professional Services with the City of Aurora as its "**Client**" that became effective on February 17, 2021 (the "**Contract**") to perform engineering and other services for the Project.

In reviewing those Contract documents I found that there was an incorporated attachment entitled "General Conditions of the Agreement for Professional Services (General Conditions Rev. 0.14.16)" (I will reference it as the "**Conditions**"). Section VI. Paragraph B of those Conditions which is entitled "Client Use of Instruments of Service" provides as follows:

- 1. Provided that Consultant has been paid in full for its services, Client shall have the right in the form of a license to use Instruments of Service resulting from Consultant's efforts on the Project. Consultant shall retain full rights to electronic data and the drawings, specifications, including those in electronic form, prepared by Consultant and its subconsultants and the right to reuse component information contained in them in the normal course of Consultant's professional activities. Consultant shall be deemed to be the author of such Instruments of Service, electronic data or documents,*

*and shall be given appropriate credit in any public display of such Instruments of Service.*

2. *Records requests or requests for additional copies of Instruments of Services outside of the scope of services are available to Client subject to Consultant's current rate schedule.*

To the City's knowledge your firm (referenced in the Contract as "**Consultant**") has been paid in full for its services under the Contract. It therefore would appear that the City has a contractual license to receive and use the Instruments of Service that your firm created under the Contract. No provision is made in the Contract for the payment of any fees in connection with providing the originals of any of those Instruments of Service – only in the event that additional copies are requested.

Consistent with its rights under the Contract as noted above, the City at this time is hereby requesting prompt delivery of all of the Documents to its contracted construction management firm, Bolton & Menk ("**Bolton**") at the address and in the form stated in the Requested Documents attachment. The City requires the Requested Documents to be delivered as requested on or before March 28, 2024 in order to avoid incurring additional costs and delays in the Project because of the absence of such information. If your firm has questions about the manner in which such documents should best be conveyed, please contact Josh Stier of Bolton to resolve those issues.

Thank you for your anticipated prompt attention to this request,



Douglas Gregor  
Mayor, City of Aurora  
Chair, East Range Water Board  
Cell: 218-750-0714  
Email: [gregor@ci.aurora.mn.us](mailto:gregor@ci.aurora.mn.us)

Attachments: One

Cc: Josh Stier  
Lucas Heikilla  
Mia Thibodeau

## **LETTER ATTACHMENT: REQUESTED DOCUMENTS**

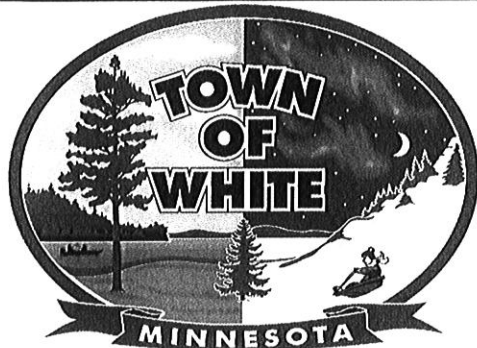
The following materials are needed by the City's construction management firm, Bolton & Menk, Inc. to move the project forward:

1. All project manuals with addendums associated with awarded (and previous) bids
2. All contractor submitted bid documents
3. All final CAD files including Revit models (as is)
4. All permit and easement documentation associated with projects
5. Plan approval letters from state agencies including Department of Labor and Industry (DOLI) Submittal
6. Any and all other project documentation held by SEH that will be necessary to carry this project through construction and ensure agency compliance

A file transfer Link has been provided to SEH via email from Bolton & Menk to facilitate digital transfer of all files, in regard to which Bolton indicates there is no limit on file size (within reason) and routes it directly to the contractor's email. If physical transfer is necessary on any items, Bolton & Menk, Inc. staff can pick up the files in lieu of postal service. SEH should provide directions to expedite the file transfers.

Requested materials should be conveyed to:

Joshua G. Stier, P.E.  
Bolton & Menk, Inc.  
Mobile: (218) 491-9434  
Email: [Joshua.Stier@bolton-menk.com](mailto:Joshua.Stier@bolton-menk.com) v



## Town of White

P.O. Box 146  
Aurora, MN 55705  
(218)229-2813  
[Jodi.Knaus@townofwhite.com](mailto:Jodi.Knaus@townofwhite.com)

March 27, 2024

Mia Thibodeau  
Fryberger, Buchanan, Smith & Frederick, P.A.  
302 West Superior Street, Suite 700  
Duluth, MN 55802

Dear Mia:

Please accept this letter as official notification by the Township Board of Supervisors to begin the title action work of transferring ownership of the water utilities (lateral trunk lines, curb stops, pumps, roadways) and any other infrastructure necessary for the Town of White and the East Range Water Board to operate water utilities in the platted area of Scenic Acres which is within the Township boundary.

This final action item will include conveying all roadways & infrastructure to the Township as well as filing all applicable notices and registrations with St. Louis County. In 2023, Paul Kilgore was working on this for the Township and I believe all he needed was the formal approval to complete the process. Please consider this letter as approval to complete this process. The East Range Water Project has been bid, contracts have been awarded and work will begin in Spring 2024 with completion in 2026.

The Township Board of Supervisors understands once this transfer is complete, the Township is taking on the liability, ownership, and operation of the utilities which will include monthly testing, maintenance, and recordkeeping. PeopleService currently is our contractor for providing these services. Please communicate with me as to when the transfer is completed so we can inform the League of MN Cities Insurance Trust and get the infrastructure added to our policy and notify PeopleService to begin the testing. Coordination will need to take place with the Scenic Acres Homeowner's Association Representatives John Baxter and Jim Luke so residents are informed and everything goes smoothly.

Please let me know if there is anything else you need to complete this title action. Thank you for all your assistance. I can be reached at (218)229-2813 or [Jodi.Knaus@townofwhite.com](mailto:Jodi.Knaus@townofwhite.com).

Sincerely,

A handwritten signature in cursive script that reads "Jodi Knaus".

Jodi Knaus  
Town Manager & Clerk

**Jodi Knaus**

**From:** Mia E. Thibodeau <mthibodeau@fryberger.com>  
**Sent:** Wednesday, March 20, 2024 3:49 PM  
**To:** Doug Gregor (gregor@ci.aurora.mn.us); Lucas Heikkila  
**Cc:** Jodi Knaus  
**Subject:** RE: East Range Water Board  
**Attachments:** Checklist-for-Ground-Leases-an.PDF; 1B73717-Executed Tax-Forfeited Land Le.pdf; 1CO7444-Amendment to Lease.docx; Assignment of Lease - White to.doc

**Caution:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon:

Attached is a draft MMB Checklist and Amendment to the Lease, both related to the Lease with St. Louis County for the Intake Site. The additional provisions set forth in the Amendment are the result of my preliminary discussions with Roger about MMB requirements (Luke you may recall the phone conference we had in early February). The draft Amendment has been reviewed by SLC and they don't have any concerns. I propose to send the draft Checklist and Amendment to Roger at MMB and ask that he review the draft and determine if he has any required/suggested additions to the Amendment prior to formal adoption by the SLC Board of Commissioners and the ERWB. No action needed this month, but I wanted to let you know I plan to send this off to Roger this week. **I anticipate requesting that the Amendment be put on agendas for approval by the Board and Town next month.** I would also note that one of MMB's requirements is **that the entire Lease fee be paid now so that amount will need to be paid to SLC prior to their execution of the Amendment (the amount is \$8,100 less payments already made).**

Finally, Roger indicated that the Lease, as amended, will need to be assigned to the City of Aurora as the direct PFA grant/loan recipient. A draft of that is also attached. Recall that the JPA provides that all real estate interests held by the Town or City for the water project cannot be conveyed without consent of the Board. The assignment and execution thereof will need to be approved by the Board and the Town later this spring.

Thank you,  
Mia

**Mia Thibodeau**  
Attorney

**Fryberger, Buchanan, Smith & Frederick, P.A.**  
 302 West Superior Street, Suite 700 | Duluth, MN 55802  
 ph: 218-725-6873 | fx: 218-725-6800  
[mthibodeau@fryberger.com](mailto:mthibodeau@fryberger.com) | [www.fryberger.com](http://www.fryberger.com)

Support provided by  
**Allison Tellinghuisen** | Legal Secretary | office: 218-725-6855 | [atellinghuisen@fryberger.com](mailto:atellinghuisen@fryberger.com)

CONFIDENTIALITY NOTICE

This is a transmission from the law firm of Fryberger, Buchanan, Smith & Frederick, P.A. and may contain information which is privileged, confidential, and protected by the attorney-client or attorney work product privileges. The information is, or may be covered by the Electronic Communications

## G. O. Compliance Checklist for

### GROUND LEASE OR EASEMENT

Development Name: East Range Water Board Water Intake Facility  
Location of Development: Government Lot 5, Section 5, Township 58 North, Range 15 West  
Identity of Lessor/Grantor: State of Minnesota, by St. Louis County, Minnesota  
Identity of Public Entity  
(Lessee/Grantee): City of Aurora  
Ground Lease/Easement: Tax-Forfeited Land Lease Agreement

*All real property that is acquired or bettered with the proceeds of State of Minnesota general obligation bonds must be publicly owned. Such ownership may be by way of fee title or via a sufficiently long-term ground lease or easement. This G.O. Compliance Checklist for Ground Leases and Easements is intended to assist the Commissioner of Minnesota Management and Budget in his or her evaluation of an ownership interest that is created by way of long-term ground lease or easement.*

The following definitions apply for the purpose of this checklist:

Commissioner - means the Commissioner of Minnesota Management and Budget or his or her designee.

Facility - means all structures that will be owned by the Lessor and leased to the Public Entity/Lessee under a long-term lease or which are owned by the Grantor and conveyed to the Public Entity/Grantee under a long-term easement.

GO Grant Agreement - means the General Obligation Grant Agreement under which the State Entity is providing the grant to the Public Entity.

Governmental Program - means a governmental program established or authorized by law and established by official action of Lessor, for which the Leased Premises will be used.

Ground Lease/Easement - means the ground lease of, or easement for, the Leased Premises under which the Public Entity acquires from the Lessor the right to use and operate the Leased Premises.

Leased Premises - means the Real Property and, if applicable, Facility that will be owned by the Lessor/Grantor and leased or conveyed by easement to the Public Entity under the Ground Lease/Easement.

Lessee/Grantee - means the Public Entity that will be the lessee/grantee of the Leased Premises under the Ground Lease/Easement.

Lessor/Grantor - means the entity that will be the fee owner and either the lessor or grantor of the Leased Premises.

Public Entity - means the public entity that will be the tenant/lessee or grantee under the Ground Lease/Easement.

Real Property - means all of the real estate that will be owned by the Lessor and leased or conveyed by easement to the Public Entity under the Ground Lease/Easement.

State Entity - means the state entity that is the issuer of the grant.

### Ground Lease/Easement Provisions

The following sets forth the provisions that must be included in all ground leases and easements that are used to create the required ownership interest. All of the following questions (i.e., requirements) must be answered "Yes" in order for the ground lease or easement to be acceptable to Minnesota Management and Budget. "N/A" means not applicable.

#### I. RECIPIENT OF GRANT

Is the Lessee/Grantee the recipient of the grant from the State under the applicable bonding bill? Yes   X    
No       

#### II. DESCRIPTION OF LEASED PREMISES

Does the Ground Lease/Easement clearly describe the Leased Premises? Yes   X    
No       

\* Section or paragraph numbers in the Ground Lease/Easement that satisfy this requirement:   Section C.  

#### III. LESSEE OR GRANTEE

Is the Public Entity the lessee or grantee under the Ground Lease/Easement? Yes   X    
No       

#### IV. MODIFICATION/TERMINATION

Is the Ground Lease/Easement structured so that it cannot be modified, restated, amended, changed in any way, or prematurely terminated or cancelled without the prior written consent and authorization of the State Entity and the Commissioner? Yes   X    
No       

\* Section or paragraph numbers in the Ground Lease/Easement that satisfy this requirement:   1st Amendment, Sections 3(B) & 3(D)  

#### V. TERM OF GROUND LEASE/EASEMENT

Is one of the following two provisions satisfied (i.e. one of the following two questions must be answered "Yes")? Yes   X    
No

A. If the Ground Lease/Easement is only for the Real Property, is the original term of the Ground Lease/Easement greater than 37.5 years, or such other period of time specifically authorized by a Minnesota statute, rule or session law? Yes  X   
 No  \_\_\_\_\_   
 N/A  \_\_\_\_\_

\* Section or paragraph numbers in the Ground Lease/Easement that satisfy this requirement:  
 Section C.

B. If the Ground Lease/Easement is for the Real Property and Facilities, is the original term of the Ground Lease/Easement greater than 125% of the useful life of the Facility, or such other period of time specifically authorized by a Minnesota statute, rule or session law? Yes  \_\_\_\_\_   
 No  \_\_\_\_\_   
 N/A  X

\* Section or paragraph numbers in the Ground Lease/Easement that satisfy this requirement:  
 \_\_\_\_\_

**VI. PAYMENTS DUE UNDER GROUND LEASE/EASEMENT**

Is the Ground Lease/Easement structured so that there are no payments due thereunder or that all payments due thereunder are due as a single lump sum on the date that the Ground Lease/Easement is first made and entered into? Yes  X   
 No  \_\_\_\_\_

\* Section or paragraph numbers in the Ground Lease/Easement that satisfy this requirement:  1st Amendment, Section 2

**VII. TERMINATION OF GROUND LEASE/EASEMENT**

Is the Ground Lease/Easement structured so that it does not contain any requirements or obligations of the Public Entity that if not complied with could result in a termination of the Ground Lease/Easement? Yes  X   
 No  \_\_\_\_\_

NOTE: The Ground Lease/Easement may contain requirements and obligations to be complied with by the Public Entity, as long as the sole remedy for non-compliance by the Public Entity is an order for specific performance.

**VIII. OPERATION OF GOVERNMENTAL PROGRAM**

A. Do the provisions of the Ground Lease/Easement clearly allow and permit the Leased Premises to be used for the operation of the Governmental Program? Yes  X   
 No  \_\_\_\_\_

\* Section or paragraph numbers in Ground Lease/Easement that satisfy this requirement:  Section C.; Exhibit B ¶ 1-2

B. Is the Ground Lease/Easement structured so that it does not contain any provisions that would limit or impair the use of the Leased Premises for the operation of the Governmental Program? Yes  X   
 No  \_\_\_\_\_





**SUMMARY**

Have all of the following questions contained herein been answered "Yes"? Yes   X    
 (If the answer to this question is "No" then the Ground Lease/Easement is not No         
 acceptable in its submitted form. Please note that even if all of the following  
 questions are answered "Yes", there still may be provisions contained in the  
 submitted Ground Lease/Easement that may make it unacceptable to the  
 Commissioner.)

- |               |                  |                  |
|---------------|------------------|------------------|
| I. ....       | Yes <u>  X  </u> | No <u>      </u> |
| II. ....      | Yes <u>  X  </u> | No <u>      </u> |
| III. ....     | Yes <u>  X  </u> | No <u>      </u> |
| IV. ....      | Yes <u>  X  </u> | No <u>      </u> |
| V. ....       | Yes <u>  X  </u> | No <u>      </u> |
| VI. ....      | Yes <u>  X  </u> | No <u>      </u> |
| VII. ....     | Yes <u>  X  </u> | No <u>      </u> |
| VIII. A. .... | Yes <u>  X  </u> | No <u>      </u> |
| B. ....       | Yes <u>  X  </u> | No <u>      </u> |
| IX. ....      | Yes <u>  X  </u> | No <u>      </u> |
| X. ....       | Yes <u>  X  </u> | No <u>      </u> |
| XI. ....      | Yes <u>  X  </u> | No <u>      </u> |
| XII. ....     | Yes <u>  X  </u> | No <u>      </u> |

**Preparation of Checklist**

This G.O. Compliance Checklist for Ground Lease or Easement was prepared by and is submitted to the Commissioner by the Public Entity, and by preparing and submitting this checklist to the Commissioner, the Public Entity hereby certifies that the information contained in this checklist is true and correct and that it accurately reflects the contents of the referenced Ground Lease/Easement.

**PUBLIC ENTITY: CITY OF AURORA**

Signature: \_\_\_\_\_

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

Date: \_\_\_\_\_

**FOR USE ONLY BY STATE OF MINNESOTA**

This G.O. Compliance Checklist for Ground Lease and Easement was reviewed by the following individual:

Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Department or Agency \_\_\_\_\_

Date \_\_\_\_\_

**APPROVAL OF GROUND LEASE BY COMMISSIONER**

Based upon the information contained in this G.O. Compliance Checklist for Ground Lease and Easement and the certification by the Public Entity that the information contained in this checklist is true and correct and that it accurately reflects the contents of the referenced Ground Lease/Easement, the Commissioner consents to the use of the referenced Ground Lease/Easement.

**COMMISSIONER OF MINNESOTA  
MANAGEMENT AND BUDGET**

By: \_\_\_\_\_  
Assistant Commissioner

Date: \_\_\_\_\_



OFFICE OF THE SAINT LOUIS COUNTY ATTORNEY

Kimberly J. Maki COUNTY ATTORNEY

September 7, 2022

Ms. Mia Thibodeau  
Fryberger Law Firm  
302 West Superior Street  
Suite 700  
Duluth, MN 55802

Re: East Range Water Board/Town of White Water Intake Facility – Tax-Forfeited Land Lease Agreement

Dear Mia:

Please find enclosed for your record the original Tax-Forfeited Land Lease Agreement executed by all parties in the above-referenced matter.

If you find it necessary to record the attached to satisfy any public grant or financing requirements, the county has no objection. Please simply forward me the final recorded document number so that we may update our file. The county is further amenable to executing a Memorandum of Lease or Declaration if needed to satisfy any final financing requirements necessary for completion of the project.

Should you require anything further, please do not hesitate to contact me. It was a pleasure working with you in this matter.

Sincere regards,

ST. LOUIS COUNTY ATTORNEY

BY:

  
NATHAN N. LACOURSIERE  
Assistant St. Louis County Attorney

DULUTH COURTHOUSE  
100 N. FIFTH AVE. W., #501  
DULUTH, MINNESOTA 55802  
218-726-2923

GOVERNMENT SERVICES CENTER  
320 W. SECOND ST., #403  
DULUTH, MINNESOTA 55802  
218-726-2034

VIRGINIA COURTHOUSE  
300 S. FIFTH AVE., #222  
VIRGINIA, MINNESOTA 55792  
218-749-7101

HIBBING COURTHOUSE  
1810 TWELFTH AVE. E., #107  
HIBBING, MINNESOTA 55746  
218-262-0158

TAX-FORFEITED LAND LEASE AGREEMENT

This Tax-Forfeited Land Lease Agreement (“Agreement”) between Lessor and Lessee, as defined in Section B below, is effective as of August 1, 2022 (“Effective Date”) for a 40-year term ending August 1, 2062 (“Initial Term”).

A. Lessor and Lessee agree that this Agreement shall govern their respective rights and obligations throughout the Initial Term.

B. Parties

LESSEE:

Town of White  
For the East Range Water Board  
16 West 2<sup>nd</sup> Avenue North  
P.O. Box 146  
Aurora, MN 55705

LESSOR:

State of Minnesota, in trust for the Taxing Districts  
c/o The St. Louis County Land and Minerals Department  
Government Services Center  
320 West 2<sup>nd</sup> Street, Suite 302  
Duluth, MN 55802  
Telephone: (218) 726-2606

C. Pursuant to Laws of Minnesota 2021, 1st Spec. Sess. chapter 6, article 2, section 124, and in consideration of the payment of Three-Hundred Dollars and No Cents (\$300.00), receipt of which is hereby acknowledged, Lessor hereby leases to Lessee, for a 40-year term commencing August 1, 2022, and ending August 1, 2062, the following tax-forfeited land:

That part of Government Lot 5, Section 5, Township 58 North, Range 15 West of the Fourth Principal Meridian, St. Louis County, Minnesota legally described and depicted on **Exhibit A** (the “Premises”) for the construction, operation, maintenance of water intake infrastructure and supporting facilities, and access thereto.

D. The initial payment includes a \$200.00 land use fee and a one-time, \$100.00 administration fee. Subsequent annual land use payments of \$200.00 shall be paid on or before the anniversary of the Effective Date. The Premises are subject at all times to tax-forfeited land sale or exchange or other necessary leasing or land management activities by the Lessor; provided, however, that no such land sale, exchange, or other leasing or land

management activities shall interfere with Lessee's rights under this Agreement. The Premises are further subject to all the conditions, provisions, and terms set forth herein and attached hereto as **Exhibit B**.

**LESSEE:**

Town of White

By: 

Name: Jon Skelton

Its: Chairman

DATE: 7.20.2022

By: 

Name: Jodi Knaus

Its: Clerk

DATE: 7.20.2022

**LESSOR:**

St. Louis County

By: 

Name: Nancy J. Nilsen

Its: St. Louis County Auditor

DATE: 8-22-22

By: 

PAUL MCDONALD

Chair of County Board

By: 

JULIE MARINUCCI

Land and Minerals

Director

**APPROVED AS TO FORM & EXECUTION:**

BY: 

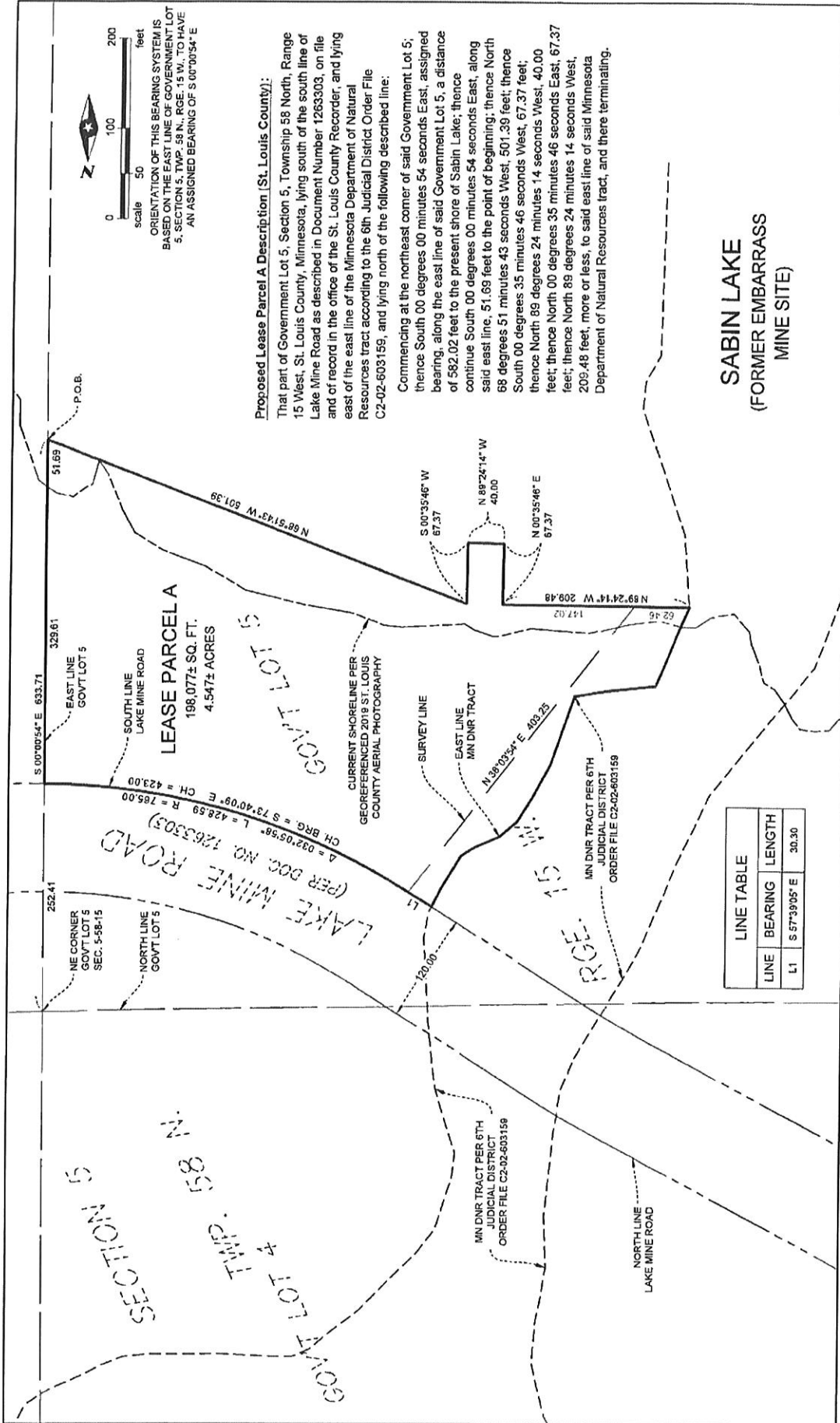
Assistant County Attorney

Date: 9-7-22

**OnBase Contract No. 2022-0024**

**EXHIBIT A**

**Survey of Leased Premises – Access Road & Water Intake Facilities**



SEH Project AUR0159723  
 Drawn By brw  
 Surveyed By ts/mf  
 Checked By cal

Revision Issue Description  
 Date

SEH PROJECT  
 EAST RANGE WATER PROJECT  
 AURORA, MINNESOTA

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

CHRYL LARSEN, L.S.  
 DATE 06/22/2022 LICENSE NO. 45948



## EXHIBIT B

### Specific Lease Terms & Conditions

1. Lessor leases to Lessee the tax-forfeited land described and depicted in **Exhibit A** (“the Premises”) for the purpose of installing, constructing, operating and maintaining a water intake plant, access roads, and related pipes, facilities and equipment (together, the “Intake Facilities”) on the leased Premises.
2. Lessee shall use the Premises only for the construction, operation and maintenance of the Intake Facilities. Preliminary project plans are attached to this Agreement as **Exhibit C**. Lessee shall provide Lessor with final project plans and drawings upon completion of the project.
3. Lessee shall be responsible for, and shall defend, indemnify and hold Lessor harmless from, any or all claims or damages, of whatever nature, arising out of Lessee’s installation and construction of the Intake Facilities and related roads, structures, or other appurtenant infrastructure. Lessee shall notify Lessor of any wells or other potential hazards located on site, including, but not limited to, any apparent violations of applicable codes, statutes, or regulations, contamination, release or threatened release of hazardous substances, pollutants, contaminants, or petroleum, known or unknown by Lessor, whether created prior or subsequent to execution of this Agreement. Lessee shall defend, indemnify and hold harmless Lessor from any claims or damages, of whatever nature, arising from its installation, construction, operation or maintenance of its Intake Facilities throughout the Initial Term of this Agreement.
4. Lessee shall comply with any road weight limits or other road restrictions placed in effect by local road authorities.
5. Lessor shall have no responsibility, by virtue of entering into this Agreement, to provide Lessee with any utility service to the Premises, including electric, gas, oil, water, sewer, fiberoptic cable, broadband or telephone. In the event a public body or other third party extends utilities to the Premises, the cost of such extension and utilities shall be borne solely by the Lessee. Installation of any added utilities to the Premises may be subject to separate lease or access agreements for crossing State tax-forfeited land.
6. Perimeter or security fencing of the Premises and Intake Facilities is permitted, provided that such fencing is maintained in safe and orderly condition to minimize risk to the public. Prior to installation of any such fencing, Lessee shall share plans with Lessor and obtain written permission for installation.
7. Lessee shall pay, when due, all taxes assessed against or levied upon the Premises or Intake Facilities, including fixtures, improvements, furnishings, equipment or other personal property of the Lessee located on the Premises during the Initial Term of this Agreement, whether assessed as real or personal property taxes.

8. Lessee and its employees, agents, contractors or other designees shall at all times comply with all applicable federal, state or local laws, ordinances, regulations, judgments or other valid orders of any governmental entity relating to Lessee's activities on the Premises. Lessee shall further obtain all permits, licenses or other authorizations required for its activities on the Premises.
9. The Intake Facilities installed, constructed, operated or maintained on the Premises shall be the sole property of Lessee. Lessor shall not gain, by virtue of this Agreement, any ownership interest in the Intake Facilities constructed on the Premises. Lessee shall have 180 days following termination or cancellation of this Agreement to remove Intake Facilities from the tax-forfeited Premises, including all equipment, materials, structures, or other property or infrastructure placed upon or affixed by Lessee upon the Premises. Lessee further agrees, in the event of termination or cancellation, to restore the Premises to a condition satisfactory to Lessor. In the event of failure to remove Intake Facilities or restore the Premises in accordance with this provision, Lessor may mitigate, sell or dispose of any such remaining property as Lessor deems fit and restore the Premises to a neat and orderly condition. Lessee shall pay expenses incurred by Lessor to dispose of any such property and restore the Premises to a neat and orderly condition.
10. Lessee agrees to maintain the Premises in a safe, clean and orderly condition throughout the Initial Term of this Agreement.
11. In relation to its activities on the Premises, Lessee shall not permit, use, store, dispose of or release any substance defined as a "hazardous substance" or "hazardous waste" under Minn. Stat. § 115B.02, as may be amended, or any other toxic substance or solid waste regulated by federal, state, or local law, except in such quantities or in such manner as may be permitted by applicable law and not harmful to the leased Premises or surrounding environs. Any handling of hazardous or petroleum-based products or fluids on the Premises shall require a mutually agreeable spill plan for the handling of such products or fluids.
12. The covenants, terms and conditions of this Agreement shall run with the land, extend to and bind any and all successors or assigns to this Agreement.
13. Lessee shall repair or pay for any damage to the property or improvements on the Premises caused by Lessee, its employees, agents, licensees or assigns during Intake operations, including any damage to existing roads.
14. This Agreement may be renewed for additional terms and conditions upon review and approval by the St. Louis County Land and Minerals Director, the St. Louis County Board, and the State of Minnesota.
15. This Agreement may be terminated by Lessee upon 30 days written notice to Lessor. Lessor may, upon 60 days written notice to Lessee, terminate this Agreement for default or breach of any of the terms or conditions set forth herein; provided, however, that if Lessee cures such breach or default within 30 days of said notice (or such additional time as may be reasonably necessary to cure depending on the scope or complexity of the

necessary cure), Lessor may not terminate the Agreement.

16. Insurance

- (a) The following insurance is the minimum amount that must be maintained for the duration of this Agreement; provided that the insurance will be secured with limits applicable to any claim of not less than the limits specified in Minnesota Statutes, Chapter 466, as may be amended from time to time. A Certificate of Insurance for each policy must be on file with the St. Louis County Land & Minerals Department within 10 days of execution of this Agreement and prior to commencement of any construction of Water Intake Facilities under this Agreement. Lessee shall secure an endorsement to each policy requiring a 10-day notice of cancellation for cancellation based upon non-payment of premiums to all named and additional insureds, and a 30-day notice of cancellation for nonrenewal, or material change to all named and additional insureds.
- (b) Lessor reserves the right to rescind any contract not in compliance with these requirements and retains all rights thereafter to pursue any legal remedies against Lessee. All insurance policies shall be open to inspection by Lessor, and copies of policies shall be submitted to Lessor upon written request. All subcontractors shall provide evidence of the same coverage.

(1) **General Liability Insurance**

\$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case.

\$1,500,000 for any number of claims arising out of a single occurrence.

No Less Than \$2,000,000 Aggregate coverage.

Policy shall include at least premises, operations, completed operations, independent contractors and subcontractors, and contractual liability and environmental liability.

**St. Louis County shall be named as an Additional Insured on a primary and noncontributory basis.**

(2) **Business Automobile Liability Insurance**

\$500,000 for claims for wrongful death and each claimant.

\$1,500,000 each occurrence.

Must cover owned, non-owned and hired vehicles.

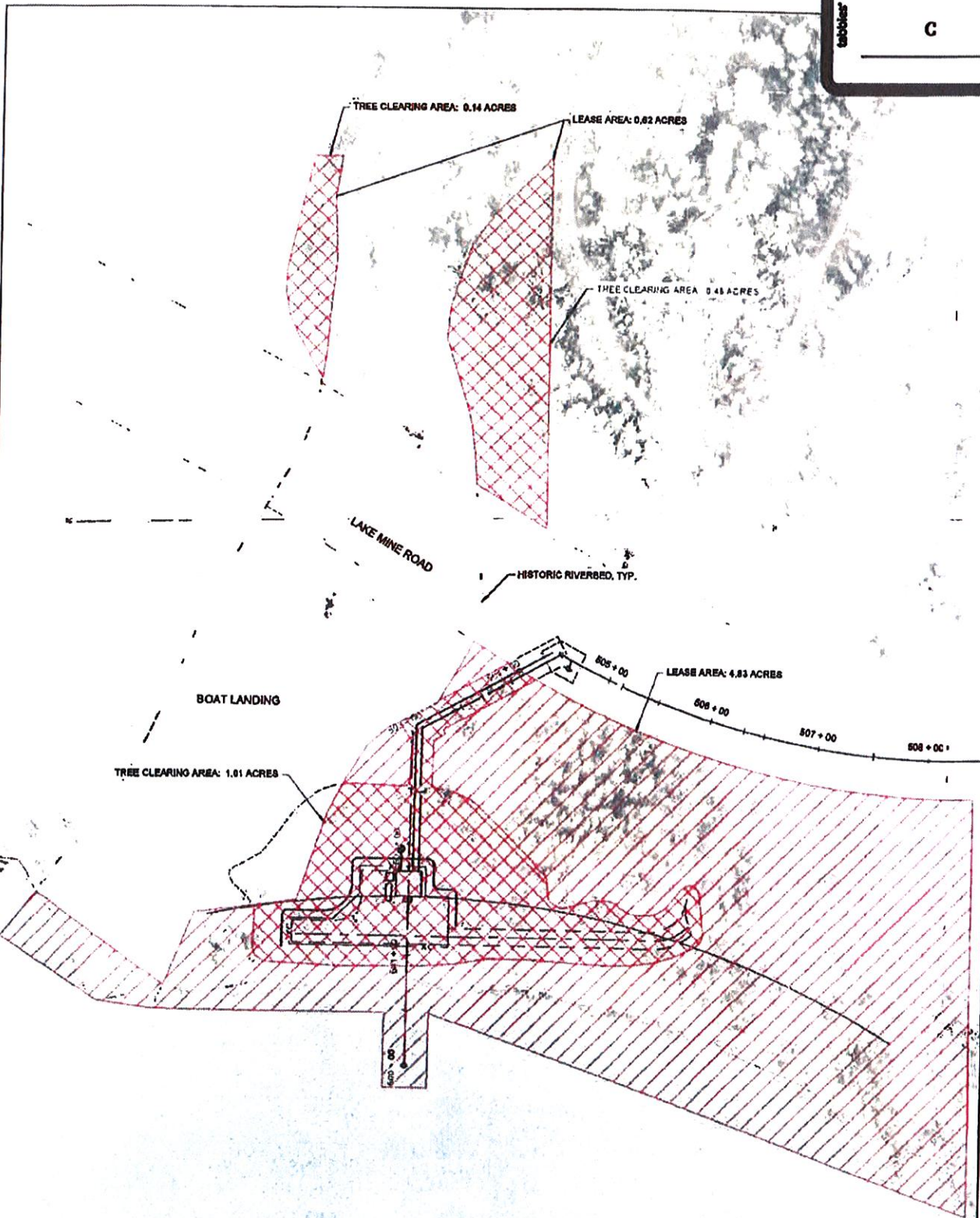
(3) **Workers' Compensation**

Per statutory requirements. Certificate of Compliance must be executed and filed with St. Louis County.

17. Indemnification.

- (a) To the fullest extent permitted by law, Lessee shall indemnify and hold harmless Lessor and its officers, employees, and agents from and against any and all claims, damages, losses and expenses, of whatever nature, including but not limited to attorney's fees, arising out of or resulting from Lessee's performance of its Intake activities authorized and contemplated under this Agreement.
- (b) Lessee agrees that, in order to protect itself and Lessor under the indemnity provisions set forth herein, it shall at all times during the Initial Term keep in force policies of insurances described in paragraph 16 above.
- (c) This provision is not intended to create any cause of action in favor of any third party against Lessee or Lessor or to enlarge in any way Lessee's liability, but it is intended to provide for indemnification of Lessor from liability for damages or injuries to third persons or property arising from Lessee's or Lessee's agents' performance hereunder.

18. Lessee may assign its interest in this Agreement or any interest herein, or sublet its Intake Facilities or any part thereof, or grant any license, concession or other right of occupancy of any portion of its Leased Premises, with the prior written consent of Lessor, which consent shall not be unreasonably withheld; provided that no written consent of Lessor shall be required for an assignment by Lessee to another member of the East Range Water Board. No such assignment or sublease shall operate to relieve Lessee of its obligations under this Lease. Lessee shall provide Lessor with prior written notice of any proposed assignment or sublease of this Agreement.



**SUMMARY TABLE**  
 TOTAL LEASE AREA: 5.45 ACRES  
 TOTAL TREE CLEARING AREA: 1.83 ACRES

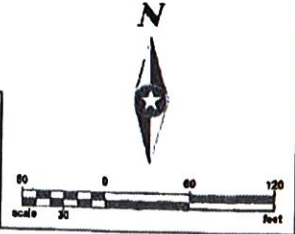
Save: 3/16/2022 1:13 PM s:\data\AURORA\159723\159723.dwg - County.dwg



**FILE NO.**  
AUROR 159723  
**DATE:**  
3/16/2022

**ST. LOUIS COUNTY LAND LEASE  
AURORA, MINNESOTA**

**EXHIBIT  
NO. 1**



This FIRST AMENDMENT TO TAX-FORFEITED LAND LEASE AGREEMENT (this "Amendment") dated as of \_\_\_\_\_, 2024, is entered into between the TOWN OF WHITE, Minnesota ("Lessee"), a public corporation and political subdivision and the COUNTY OF ST. LOUIS, MINNESOTA a body, corporate and politic and political subdivision (the "Lessor").

## RECITALS

A. WHEREAS, Lessor and Lessee entered into that Tax-Forfeited Land Lease Agreement dated August 1, 2022 (the "Original Lease") attached as Exhibit 1. The Original Lease, as amended by this Amendment, is referred to herein as the "Amended Lease."

B. WHEREAS, the Original Lease was entered into in order to permit Lessee to construct, operate, and maintain water intake infrastructure and supporting facilities for a joint water project (the "Project") operated by the East Range Water Board which is comprised of the Lessee and the City of Aurora, Minnesota (the "City").

C. WHERAS, the Project has received funding from State of Minnesota ("State") General Obligation Bond Proceeds, which will be distributed pursuant to a grant agreement with the State (the "Grant Agreement"). The terms of the Grant Agreement require that the Original Lease be amended to contain certain provisions, including those specified in this Amendment.

## AGREEMENT

NOW, THEREFORE, and in consideration of the above, the parties agree as follows:

1. Incorporation of Recitals. The recitals stated above are a part hereof and are incorporated herein.

2. Amendments to Agreement. A. Section C of the Original Lease is amended to replace "Three Hundred Dollars and No Cents (\$300.00)" with "Eight Thousand One Hundred Dollars and No Cents (\$8,100.00)". B. Section D of the Original Lease is hereby amended to delete the first two sentences. Lessor hereby acknowledges receipt of all payments required pursuant to and over the term of the Lease in the amount of \$8,100.

3. Additional Provisions Added to Lease. The following provisions are hereby added and incorporated into the Lease:

(A) Acknowledgement of Grant Agreement. The Lessor and Lessee acknowledge the existence of the Grant Agreement and the terms, conditions and provisions thereof control over any inconsistent provision in the Lease.

(B) Amendment, Modification, and Waiver. No amendment, modification, or waiver of any condition, provision, or term of the Amended Lease shall be valid or of any

effect unless made in writing, signed by the party or parties to be bound or its duly authorized representative, and approved in writing by the State of Minnesota Public Facilities Authority (the "PFA") and the Commissioner of Minnesota Management and Budget (the "Commissioner"), and specifying with particularity the extent and nature of such amendment, modification, or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default.

(C) Liens and Encumbrances. Without the consent of the PFA and the Commission, Lessor may not create or allow any voluntary lien or encumbrance, or involuntary lien or encumbrance, that can be satisfied by the payment of monies.

(D) Consent of PFA and Commissioner Required. Notwithstanding any other provision to the contrary in the Amended Lease, Lessor may not prematurely terminate or cancel the Amended Lease without the prior written consent and authorization of the PFA and the Commissioner.

4. Acknowledgements.

(A) Lessor hereby acknowledges receipt of all payments required pursuant to and over the term of the Lease in the amount of \$8,100.

(B) Lessor acknowledges this Amendment as written notice of Lessee's assignment of the Lease and this Amendment to the City.

5. Severability. If any section, paragraph, clause or provision of this Agreement and/or the Amended Lease shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Agreement and/or the Amended Lease.

6. Governing Law. This Agreement and the Amended Lease shall be construed in accordance with the laws of the State of Minnesota.

7. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original; but all such counterparts shall together constitute but one and the same instrument.

8. Effective Date. This Agreement shall become effective as of the date first written above.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Amendment to be executed in their respective names, all as of the date first above written.

**LESSEE:**

Town of White

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

Name: Jon Skelton

Its: Chairman

DATE: \_\_\_\_\_

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

Name: Jodi Knaus

Its: Clerk

DATE: \_\_\_\_\_

**LESSOR:**

St. Louis County

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

Name: Nancy J. Nilsen

Its: St. Louis County Auditor

DATE: \_\_\_\_\_

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

PATRICK BOYLE  
Chair of County Board

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

JULIE MARINUCCI  
Land and Minerals Director

**APPROVED AS TO FORM & EXECUTION:**

BY: \_\_\_\_\_  
Assistant County Attorney

Date: \_\_\_\_\_

**OnBase Contract No. 2022-0024**





management activities shall interfere with Lessee's rights under this Agreement. The Premises are further subject to all the conditions, provisions, and terms set forth herein and attached hereto as Exhibit B.

**LESSEE:**

Town of White

By: 

Name: Jon Skelton

Its: Chairman

DATE: 7.20.2022

By: 

Name: Jodi Knaus

Its: Clerk

DATE: 7.20.2022

**LESSOR:**

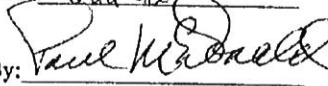
St. Louis County

By: 

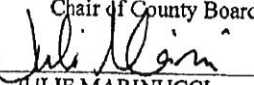
Name: Nancy J. Nilsen

Its: St. Louis County Auditor

DATE: 8-22-22


By: 

PAUL MCDONALD  
Chair of County Board

By: 

JULIE MARINUCCI  
Land and Minerals  
Director

**APPROVED AS TO FORM & EXECUTION:**

BY:   
Assistant County Attorney

Date: 9-7-22

OnBase Contract No. 2022-0024

## ASSIGNMENT OF LEASE

This ASSIGNMENT AND ASSUMPTION OF TAX-FORFEITED LAND LEASE (this “**Assignment**”) is made as of \_\_\_\_\_, 2024 (the “**Effective Date**”), by the **TOWN OF WHITE**, a public corporation and political subdivision of the State of Minnesota, (“**Assignor**”) and the **CITY OF AURORA**, a public corporation and political subdivision of the State of Minnesota (“**Assignee**”).

### RECITALS:

A. WHEREAS the TOWN OF WHITE (as “Lessee”) has entered into a Tax-Forfeited Land Lease Agreement (the “Lease”), with the State of Minnesota, in trust for the Taxing Districts (as “Lessor”), wherein the TOWN OF WHITE has leased certain real estate, legally described on survey attached as **Exhibit A**, from the State of Minnesota.

B. WHEREAS the Lease was amended by First Amendment to Tax-Forfeited Land Lease, effective \_\_\_\_\_, 2024.

C. WHEREAS a copy of the Lease, as amended, is attached hereto.

D. WHEREAS the Lease has an effective date of August 1, 2022 and continues for a 40-year term ending on August 1, 2062.

E. WHEREAS Exhibit B, section 18 of the Lease provides that Lessee may assign its interest in this Agreement or any interest therein, with the prior written consent of Lessor, which consent shall not be unreasonably withheld; provided that no written consent of Lessor shall be required for an assignment by Lessee to another member of the East Range Water Board.

F. WHEREAS the CITY OF AURORA, the Assignee, is a member of the East Range Water Board.

G. WHEREAS Assignor wishes to assign its interest in the Lease to Assignee, and Assignee wishes to receive and assume Assignor’s interest in the Lease from Assignor.

### AGREEMENT:

NOW, THEREFORE, and in consideration of the mutual covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

Assignment. Assignor hereby grants, transfers, conveys and assigns to Assignee all of Assignor’s right, title, estate and interest in, to and under the Lease, as amended.

Assumption. Assignee hereby accepts such assignment of Assignor’s right, title, estate and interest in, to and under the Lease, and, in addition, (i) assumes and agrees to be bound by the Lease, and (ii) agrees to keep, perform, fulfill, and observe all of the terms, covenants, obligations, agreements, and conditions required to be kept, performed, fulfilled, and observed by the Lessee under the Lease.

Indemnification of Assignor. Assignee hereby agrees to indemnify, defend, and hold Assignor harmless from and against any and all liability, loss, cost, damage and expense (including, without limitation, reasonable attorneys' fees and costs) directly or indirectly arising out of or based upon Assignee's failure to keep, perform, fulfill and observe any of the terms, covenants, obligations, agreements, and conditions required to be kept, performed, fulfilled, and observed by the lessee under the Lease from and after the Effective Date.

Indemnification of Assignee. Assignor hereby agrees to indemnify, defend, and hold Assignee harmless from and against any and all liability, loss, cost, damage and expense (including, without limitation, reasonable attorneys' fees and costs) directly or indirectly arising out of or based upon Seller's failure to keep, perform, fulfill, and observe any of the terms covenants, obligations, agreements, and conditions required to be kept, performed, fulfilled, and observed by the lessee under the Lease prior to the Effective Date.

Binding Effect. This Assignment shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment as of the Effective Date.

*[signatures follow on subsequent pages]*

SIGNATURE PAGE OF ASSIGNOR  
TOWN OF WHITE  
TO ASSIGNMENT OF LEASE

**ASSIGNOR:**

TOWN OF WHITE,  
a public corporation and political subdivision  
of the State of Minnesota

---

BY: Jon Skelton  
Its: Chairman of Town Board

ATTEST:

---

BY: Jodi Knaus  
Its: Town Clerk

SIGNATURE PAGE OF ASSIGNEE  
CITY OF AURORA  
TO ASSIGNMENT OF LEASE

**ASSIGNEE:**

CITY OF AURORA,  
a public corporation and political subdivision  
of the State of Minnesota

\_\_\_\_\_  
BY: Doug Gregor  
Its: Mayor

ATTEST:

\_\_\_\_\_  
BY: \_\_\_\_\_  
Its: City Clerk



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Duluth, MN 55811

Ph: (218) 729-5939  
Bolton-Menk.com

## MEMORANDUM

**Date:** April 11, 2024  
**To:** East Range Water Board  
**From:** Josh Stier, PE  
Brian Guldán, PE  
Jacob Crispo, PE  
**Subject:** Engineering Project Updates – ERWB Water Project

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This technical memorandum provides a status update on recent progress concerning the Water Project. Each of the three portions of the project are discussed separately below.

### Raw Water Building

The major item of concern regarding the raw water building is the water appropriations permit from the DNR. We recently learned the permit was not finalized and there are remaining efforts needed with the DNR to complete the permit. At this time, it is not anticipated that the permit will have schedule impacts as the contractor is not planning to start work on the raw water intake until September. However, construction on the structure cannot start until the permit is finalized so it will be critical to move this item forward. We have a meeting scheduled for April 19<sup>th</sup> with the DNR to review the steps needed to finalize the permit. We also have a meeting scheduled with the contractor for April 17<sup>th</sup> to review the design of the intake structure and investigate cost savings opportunities.

### Watermain

The technical team reviewed the valves on the 16-inch raw water line between the raw water intake and water plant. As bid, there are 6 butterfly valves specified; the project team recommends upgrading the valves to gate valves which will have improved performance long term and reducing the number of valves to only 2 valves. Based on pricing provided by the contractor, the upgrade per valve is about \$3000/valve but the reduced number of valves result a savings of approximately \$55,000.

The Contractor has proposed salvaging and reinstalling the hydrants on Lake Mine Road, in lieu of directional drilling as specified, this will result in a project savings of approximately \$20,000.

The project team is evaluating the realignment of the watermain between Scenic Acres Road and Pineville. Coordination with the landowner (current easement holder) indicates they are open to the revised alignment. The contractor has verbally agreed to the new route contingent on timely permit approval. Bolton & Menk has initiated the permitting process with the DNR and MnDOT, once the permits have been revised, we will initiate a change order for the revised alignment. This re-alignment is expected to reduce the length of pipe installed by about 1600 ft and could yield a cost savings of approximately \$200,000.

The team is coordinating with staff to review location of the pressure reducing valve (PRV) station in Pineville along Ryan Road. The current placement as specified is expected to have frequent ground water

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concerns. We are evaluating opportunities to relocate the PRV to a location that would be less impacted by fluctuation in groundwater levels.

### **Raw Water Building**

The value engineering process for the raw water building produced a revised building layout for the Board's consideration. Plan sheets for the approximate revised building layout along with the original layout are enclosed for your reference. The primary changes in the revised building layout are as follows.

- The indoor generator was deleted and replaced with a hookup connection for a rental generator.
- The generator room was repurposed to an operations/conference room
- The second story operations room and restrooms were deleted (since the generator room was converted to operations)
- A redundant stairwell to the upper level was deleted.
- The powder activated carbon feed room was eliminated since the chemical is not needed
- The sloped steel roof will change to a membrane roof
- Steel siding on the back side of the treatment facility will be changed to precast wall panels
- The chlorine contact tank was moved on the site to be constructed with a common wall to the pump chamber inside the building

The revised building layout as described above was submitted to the contractor so they could provide an estimate of potential cost savings for the modifications. Magney Construction provided an estimated cost savings of between \$1.3M to \$1.5M for the above modifications. We will be discussing this information with the Board at the April 17<sup>th</sup> meeting to determine if the Board would like to move forward with the revised building layout.

### **Schedule**

The following schedule provides a summary of the key milestone dates for the project.

- March 12: Technical Committee Meeting 1 (Complete)
- March 18: Value Engineering Meeting (Complete)
- April 9: Technical Committee Meeting 2 (Complete)
- April 17: Meeting with Contractor to Discuss Raw Water Intake Structure
- April 17: Preconstruction Meeting for Watermain Project
- April 17: Update to Water Board/Approval of Revised Building Layout
- April 19: Meeting with DNR
- April 22: Revised Structural Drawings of Chlorine Contact and Backwash Tanks Provided to Contractor
- April 25: Preconstruction Meeting for WTP/Raw Water
- June 15: Complete Revised Building Layout Drawing