WORKSESSION AGENDA
Monday, January 11, 2021
7:00 pm

Please be advised that the regular meeting location is the City Hall Training Room, located at 125 3rd Avenue North, South St. Paul. Pursuant to Minn. Stat. 13D021, under the current emergency declaration due to the COVID-19 health pandemic, some or all of the council members may participate in remote locations using WebEx. Any member of the public wishing to monitor the meeting may do so electronically by logging in as follows:

**WebEx Meeting - Login for the Public:**
Join by Phone: 1-312-535-8110
Access Code: 177 680 2855

AGENDA:

1. Concord Street Project – Proposed Concrete Crushing Site
2. 135 & 139 Grand Avenue East Update (EDA)
4. North Concord Street Zoning Study Request for Proposal
5. Seidl’s Lake Lift Station Update
6. 2021 State Bonding Priorities
7. Review/Modify COVID-19 Meeting Protocols
8. Solar Farm Option
9. Kaposia Landing Playground Update - *No Attachment*
10. Council Questions & Comments
AGENDA ITEM: Concord Street Project – Proposed Concrete Crushing Site

DESIRED MEETING OUTCOMES: Input from Council on a proposed concrete crushing site for the Concord Street Improvement Project.

OVERVIEW:

Kimley Horn is working with staff to finalize the project specifications for the Concord Street project. Due to the amount of concrete pavement removal associated with the project, staff believes that substantial savings (rough estimate of around $200,000) could be realized by allowing the successful contractor to establish a concrete crushing operation in close proximity to the project area. This could minimize costs incurred by hauling to a remote site where the material would be crushed by a subcontractor and in essence purchased back for use as Class 5 for the roadway base.

Staff has identified EDA-owned property at the northeast corner of Concord Street and Grand Avenue as a prospective site for concrete crushing operations. The parcel is approximately 170' wide by over 550' long. If Council is interested in allowing a contractor to utilize this site, staff proposes the following:

- Ordinance Amendment – Work with the City Attorney to amend the ordinance to allow temporary concrete crushing operations on City-owned property for City Improvement Projects.
- Process an Interim Use Permit (IUP) for allowing concrete crushing on the EDA property located at the northeast corner of Concord Street and Grand Avenue. Conditions will be proposed which include provisions such as hours of operation, dust control, and use of Concord Street materials only. The City will apply for the IUP concurrently with the ordinance amendment.

SOURCE OF FUNDS:

N/A
AGENDA ITEM:  135 & 139 Grand Avenue East Update

DESIRED OUTCOMES:
- Discuss disposition alternatives for 135 Grand Avenue East
- Provide update on acquisition of 139 Grand Avenue East

OVERVIEW:
In support of the implementation of the City’s 2040 Comprehensive Plan and the Hardman Triangle Redevelopment Strategy, the EDA and its predecessor the HRA have assembled site control of properties to the east of Concord Street, on the north side of Grand Avenue, including 135 Grand Avenue East and 139 Grand Avenue East. The EDA has owned the property at 135 Grand Avenue East, occupied by 2020 Brands / Foxtrot Marketing Group since June 2019, and entered a contract to acquire 139 Grand Avenue East, occupied by Twin City Pallet Company, in May 2020. The lease at 135 Grand Avenue East is set to expire on February 28, 2021. Closing for the acquisition of 139 Grand Avenue East is scheduled for later in January 2021.

As the EDA discussed during the development of the Hardman Triangle Strategy, it is highly likely that redevelopment of the Hardman Triangle area will require the use of specifically tailored Economic Development Tools including Redevelopment Tax Increment Financing, County and State Redevelopment Grants, and State Contamination Cleanup Dollars in order for private development to be feasible in this area. Given the statutory framework influencing many of those tools, we need to think methodically about when and how to undertake activities (such as demolition and site restoration) within the Hardman Triangle.

It is important that the EDA keep in mind that Redevelopment Tax Increment Financing is expected to be a critical tool for redevelopment in this area. State TIF law explicitly states that Redevelopment TIF can only be utilized in areas where 70% of all parcels in a district meet a “coverage” test (they are “improved” with buildings, pavements, parking, utilities, etc.) AND that at least 50% of all buildings pass a “blight” test. It is quite possible that for redevelopment TIF to be an option in the future, we’d need to rely on the existing buildings at 135 & 139 to meet that test.

135 Grand Avenue East
Upon our acquisition of the 135 Grand Avenue property in June 2019, we were assigned a lease with the occupant, 2020 Brands. At the time of acquisition, 2020 was under contract to lease a new facility that would be developed by Interstate Development at the southeast corner of Hardman Avenue and Hardman Court, on EDA-owned property. Unfortunately, 2020’s parent company got “cold feet” just before closing, and that deal was scuttled. 2020 continued to search for replacement property, and we agreed to extend their lease (with an increase in rent) through February 2021 while they searched. As of this writing, the tenant has confirmed their intention to vacate 135 Grand Avenue by 2/28/2021 as prescribed in the lease. It should be noted – the lease
does provide that they need to give us a minimum of 30 days notice if they wish to extend, so conceivably such a request could still be forthcoming.

Given the tenant’s looming exit from the property, Staff is seeking the EDA’s guidance and feedback on what we should do with the property once it is vacated. The three most obvious options before us are:

- Option 1 - Retain the building and attempt to re-tenant.
- Option 2 - Retain the building structure, but effectively prepare it for demolition.
- Option 3 - Demolish the building as soon as possible.

**Option 1 – Retain/ Re-tenant**
This option is probably the most complicated approach in terms of execution. Staff is not well-equipped to market the property for lease, and given the building’s age, deferred maintenance, and obsolescence it would likely take several months at a minimum to find a new tenant. This approach (assuming a tenant was found) would generate rental income from the property, and would likely relieve the EDA from most if not all upkeep and maintenance obligations, while keeping the building in place to help with the “TIF” test mentioned in the previous section. However, there are some critical drawbacks to this Option. First and foremost, unless we find a tenant immediately, we will immediately begin to accrue carrying costs (utilities, security, insurance, maintenance and upkeep, marketing) for the building upon the tenant’s exit and until a new tenant is found. If we are able to secure a tenant, our challenges in structuring a lease that is fundamentally temporary and subject to future development momentum introduces its own challenges – namely what our responsibility/obligation to any such tenant would be should we need to relocate them in the future. Ultimately, Staff does not feel the retain/re-tenant option is a viable one for the EDA at this time. However, if the EDA feels that this is the preferable option, we would suggest that staff return at the next worksession to provide a closer examination of the logistics of marketing the property as well as the costs of maintaining and operating the property.

**Option 2 – Retain / “Mothball”**
This option would see the EDA defer demolition of the building but effectively cut off all utilities and generally prepare the building for demolition. The benefit of taking this approach is that it buys us as much time as we need for redevelopment opportunities to mature in the district, specifically if (as expected) Redevelopment TIF is to be a tool. However, this approach is not without its drawbacks. A vacant building is a potential liability and may introduce unforeseen maintenance issues as well as potential security and public safety concerns.

**Option 3 – Schedule Demolition**
This option would result in the EDA soliciting bids for the demolition of the 135 Grand Avenue East building in the relatively near-term. While this approach by and large eliminates the “liability” concerns raised above, it does introduce some potential challenges. First, it should be recognized that the building is one of the last remaining structures associated with the Swift & Co. meat packing plant, which used to occupy much of the Hardman Triangle. While it is a later period structure (constructed in the mid-1930s) and is generally utilitarian, it does have some interesting architectural features and, conceivably, viable re-use possibilities – if a partner could be found with the wherewithal to (and the tenants to warrant) invest in it. The challenge is, the type of mixed-use redevelopment that the City’s Planning Documents envision for this property
is simply not currently attracted to this location generally, let alone an 85 year old building with deferred maintenance.

Staff would suggest that if this option is pursued, we first evaluate the property to determine that it meets the statutory test for “blight”. By doing so, we could use the property as justification Redevelopment TIF if (and only if) we create a Redevelopment District based on that analysis within 3 years of the finding of blight. This approach effectively “starts the clock” on the EDA to redevelop at least a portion of the Hardman Triangle (that part that includes the building). As staff has relayed multiple times, development interest in the Hardman Triangle is not yet “ripe”, although we have successfully put the site on the radar of several developers. That said, the landscape could significantly change in 3 years, particularly if the recently proposed/approved developments along Concord Exchange North prove to advance on schedule (and successfully).

In Staff’s opinion, Option 3, while it results in the loss of a building with a measure of historic value and does introduce a certain level of risk as it relates to timing and the ability to utilize TIF to its fullest extent, represents the best option for the EDA to balance its operational capacity and the community’s redevelopment aims.

**139 Grand Avenue East**

The EDA entered a contract to acquire the property at 139 Grand Avenue East in May 2020, with the contract amended most recently in November to allow for closing on or before January 31, 2021. We have continued to coordinate with the current property owner/occupant (Twin City Pallet) and they have identified a replacement property for their business. We are on track to close on the property late this month, at which time a lease agreement – approved by the EDA in October 2020 – will take effect. The occupant anticipates that they will need up to 12 months after closing to vacate the site.

**SOURCE OF FUNDS:**

Based on estimates provided by demolition contractors, the cost to demolish the building at 135 Grand Avenue East is anticipated to be between $175,000 - $225,000. The property is currently located within the Concord Street No. 2 TIF District, and demolition is an eligible expenditure in the district.

**ATTACHMENTS:**

Orientation Map
AGENDA ITEM: Economic Development Strategy Update

OVERVIEW:
In early 2017, the Economic Development Authority approved the *South St. Paul Economic Development Strategy 2017 - 2020*. This Strategy was prepared after several Economic Development Advisory Board (EDAB) work sessions that sought to better identify what South St. Paul’s economic opportunities, challenges, strengths, and vulnerabilities are. Historically, the City had not had a formal, articulated, and consensus-based Strategy for Economic Development, which the EDAB and City Staff felt resulted in a certain lack of focus or understanding of the City’s long-term and short-term economic development goals and objectives and how to meet them.

The Strategy was intended to guide the projects, policies, and programs that the City would focus on between 2017 – 2020 (and beyond). Upon its approval, it was fully expected that the Strategy would be revisited in early 2021 to confirm, supplement, and/or adjust the strategy in light of actions taken in the previous years and evolving conditions in the market. To this end, Staff has begun working with Progress Plus in an effort to update the Strategy over the next few months. A kick-off meeting with a focus group consisting of former EDAB members and current Progress Plus members is scheduled for Wednesday, January 13.

The Strategy Document can be found on the City’s website: [https://www.southstpaul.org/DocumentCenter/View/3652/2017---2020-Economic-Development-Strategy-Guide-PDF?bidId=](https://www.southstpaul.org/DocumentCenter/View/3652/2017---2020-Economic-Development-Strategy-Guide-PDF?bidId=). Staff encourages the EDA to review the document prior to Monday’s worksession. As we are set to launch the update this week, we are open to the EDA’s thoughts and feedback on the update and the course it might take. We anticipate holding 3 – 4 sessions with the focus group, and returning to the EDA later this spring with a proposed Update document.
AGENDA ITEM: Discussion on Request for Proposals (RFP) for North Concord Zoning Study

DESIRED OUTCOMES:

- Review Upcoming Zoning Study and Dakota County SHIP grant.
- Discuss Draft Request for Proposal (RFP)
- Discuss how City Council wants to select consultant team

OVERVIEW:

Background

At the September 28, 2020 worksession meeting, Staff reviewed plans to submit a grant application to the Dakota County SHIP program for $30,000 to fund a zoning study of Concord Street North. The City has been planning this zoning study since at least 2013 and it has been included in the Capital Improvement Plan (CIP) as a “future study” for the past several years. The goal of the study is to update the North Concord Mixed-Use zoning district standards to better align with the community’s redevelopment goals and with market realities. This will help prepare the corridor for redevelopment after the Concord Street reconstruction project is completed in 2022.

The grant application was successful and Dakota County has awarded South St. Paul the full $30,000 that was requested. The grant requires a 10% match which will be an in-kind contribution of City Staff time since City Planner Michael Healy will oversee the project.

Timeline for Project

Dakota County is currently preparing a Joint Powers Agreement which will be brought to the City Council for review and approval on either January 19th or February 1st. The project can officially “begin” and the County can start paying consultant bills as soon as the Joint Powers Agreement has been approved.

The SHIP grant requires that all reimbursable consultant work be completed by October 31st, 2021 although City Staff is allowed to continue working on the project after that date if necessary.

Request for Proposal

The City will use the $30,000 grant to hire a consultant team to assist City Staff with the zoning study. Because the existing North Concord Mixed Use zoning district is a “form-based” zoning district with very extensive rules regarding building architecture and site design, the City is seeking a planning consultant that has significant experience with urban design. The Code’s
existing design rules were originally created for Concord Exchange and they are not a good fit for Concord Street North. The consultant will need to assist the City with updating the design rules to better fit Concord Street North. City Staff has prepared a Request for Proposal (RFP) and is proposing the following tentative dates:

- City releases the RFP on Tuesday, January 12th.
- Consultant proposals are due 5 weeks later on Wednesday, February 17th.
- City Council selects a consultant team at meeting on Monday, March 1st.
- Contract with consultant finalized at City Council meeting on March 1st or March 15th.
- The project would begin as soon as the contract is finalized.

**Overview of Project Scope**

City Staff has structured the project to have three (3) deliverables:

1. **Corridor Vision.** The consultant and City Staff will engage the community as well as the Planning Commission and City Council to develop a clear vision for North Concord. The Corridor Vision will be a short document that functions as a “mission statement” and outlines the City’s redevelopment goals and aesthetic vision for North Concord. It will not be a full small area plan.

2. **Ordinance Amendment to Update the North Concord Mixed Use (NCMU) Zoning District.** The consultant will assist City Staff in drafting an ordinance amendment to update the NCMU zoning district standards to implement the corridor vision. The ordinance amendment will then go through a formal review with the Planning Commission and City Council.

3. **Graphics Depicting Revised Standards.** The consultant will put together a set of graphics that show how the zoning standards work. This can be shared with developers and business owners to help them understand the zoning district rules.

**City Council Input Sought**

Staff is seeking Council feedback on two matters:

1. Does the City Council support the proposed project scope? Are any changes needed before the RFP is released?

2. Once the proposals are received, how should the consultant team be selected? Does the City Council want to form a selection committee that includes City Councilmembers and/or Planning Commissioners in addition to Staff or should the selection be handled completely at the Staff level?

**Attachments**

A- Zoning Map with NCMU Zoning District in Dark Purple
B- Draft North Concord Zoning Study Request for Proposal
REQUEST FOR PROPOSAL

NORTH CONCORD MIXED-USE ZONING DISTRICT UPDATE

Corridor Vision and Zoning Ordinance Update

CITY OF SOUTH ST. PAUL, MN

DUE DATE: February 17, 2021, 12 p.m.

COMMUNITY DEVELOPMENT DEPARTMENT
January 12, 2021
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PURPOSE OF REQUEST

The City of South St. Paul seeks to enter into a contract with a consultant to provide consulting services to help develop a cohesive vision for the North Concord corridor and to update the existing North Concord Mixed-Use (NCMU) Zoning District development standards to implement that vision. The North Concord corridor primarily consists of land that is directly adjacent to Concord Street North in the parts of South St. Paul that are north of Grand Avenue.

BACKGROUND

North Concord Street

“North Concord” describes a roughly 2.2 mile section of Concord Street in South St. Paul that lies between Annapolis Street E. (the City’s northern border with Saint Paul) and Grand Avenue. Existing development along the corridor consists primarily of small commercial and industrial buildings, some of which date back to the early 1900’s, as well as a number of scattered single-family homes. The City of South St. Paul recently undertook a turnback project and all of North Concord, which has been State Highway 156, was transferred from MnDOT’s jurisdiction to the City’s.

The turnback project involves millions of dollars in infrastructure improvements that are designed to lay the foundation for a safe, walkable, mixed-use neighborhood along Concord Street North. The existing street is laid out like a highway and has numerous missing sidewalk sections and car-oriented aesthetics that are discouraging to pedestrians. The new street, which will be completed in 2022, will have sidewalks and bikeable shoulders as well as generally improved aesthetics. The street will be designed so that it is easier to cross and is less of a barrier to bicyclists and pedestrians seeking to reach the Mississippi River.

The City anticipates that the street improvements will make land adjacent to Concord Street much more attractive to developers, entrepreneurs, and families looking for an interesting/walkable place to live. With that in mind, the City wants to make sure that the right development standards are in place to facilitate redevelopment and help this corridor thrive. Most of the corridor is already zoned “North Concord Mixed-Use (NCMU),” which is a form-based commercial/residential mixed-use district. However, the zoning standards that are in place today are not realistic and are not conducive to new development. There has not been any new development on the corridor since the current development standards were implemented in 2004.

The existing NCMU standards are in place because the City wanted to steer the North Concord corridor towards “mixed-use development” in 2004 but did not have the time or the budget to undertake a zoning study to create a vision for the corridor or draft development standards that were tailored to the area. Instead, the City copied the existing form-based mixed-use zoning rules from its planned downtown district. North Concord is very different than a downtown area and it has challenging topography and narrow parcels which are difficult to build on. The corridor is constrained by river bluffs and the Union Pacific railroad tracks. The existing NCMU zoning standards have created a situation where every existing building on the corridor is lawful nonconforming with limited expansion options and almost every development project is unbuildable without variances or PUD flexibility.

The purpose of this project is to develop a cohesive vision for the North Concord corridor and update the NCMU zoning standards to establish more development-friendly standards so that a walkable neighborhood that supports active living can develop along North Concord after the new street is completed.

Mississippi River Corridor Critical Area

The project area is located within the Mississippi River Corridor Critical Area (MRCCA), a State-mandated environmental protection overlay zoning district. The MRCCA program is overseen by the Minnesota DNR and administered locally in accordance with “City Code Section 118-167 Mississippi River Corridor Zoning” and “Chapter 10 Critical Area Plan” of the City’s 2040 Comprehensive Plan.
The City’s existing MRRCA ordinance is several decades old and does not align with the State’s new standards, which were recently adopted. The DNR is assisting a handful of river-adjacent communities with updating their MRCCA ordinance each year and the City of South St. Paul is scheduled to update its ordinance in 2023. This update is compulsory and the City’s new ordinance will need to meet the State’s new standards.

The existing MRRCA ordinance has a number of development standards relating to bluff impacts and the updated MRCCA ordinance will include refinement of those standards. Because of the presence of river bluffs on both the east and the west side of Concord Street North, most future development projects in the corridor will include some type of bluff impact.

The goal of the “North Concord Corridor Vision and Zoning Ordinance Update” is to create clear, consistent, and realistic mixed-use zoning standards for the North Concord corridor to facilitate redevelopment. It will not be possible to reach this goal without addressing some of the unresolved land use tension between the NCMU district’s economic development goals and the MRCCA district’s bluff impact avoidance goals. The Minnesota DNR and the Friends of the Mississippi advocacy group are both considered stakeholders in the project area and the City anticipates inviting both organizations to participate in this project.

**Concord/Grand Gateway Streetscape and Redevelopment Plan**

The City hired a consultant in 2003 to develop a small area plan for the redevelopment of Concord Exchange, the City’s original downtown main street which was mostly torn down in the 1970’s as part of a large-scale urban renewal project. Despite having a similar name, Concord Exchange is an entirely different street than Concord Street and the two roads run parallel to each other.

The 2003 small area plan, known as the “Concord/Grand Gateway Streetscape and Redevelopment Plan,” called for the creation of a form-based mixed-use zoning district along Concord Exchange. This new zoning district, the Concord Gateway Mixed Use zoning district, was created and implemented in 2003. The small area plan and the zoning rules were repurposed in 2004 and copied almost word-for-word in order to create the North Concord Mixed Use (NCMU) zoning district. The consultant team should review the 2003 plan to understand the context of the existing NCMU zoning rules.

**Hardman Triangle Small Area Plan and Market Study**

A triangular-shaped superblock known as the “Hardman Triangle” is located at the northeast corner of Grand Avenue and Concord Street in South St. Paul. A portion of this block is currently zoned “North Concord Mixed Use” (NCMU) and the block is considered part of the “North Concord” corridor whereas everything south of the block is “South Concord.” The block is populated with heavy industrial legacy businesses and buildings that date back to the era when this part of the community hosted the largest stockyards in the country.

The City has a longstanding goal of redeveloping the Hardman Triangle and the City’s EDA owns several parcels on the superblock. The City’s redevelopment goals are complicated, however, because some of the legacy businesses have substantial and very valuable “grandfather rights” as lawful nonconforming businesses. Some of the legacy businesses generate significant nuisance side effects relating to odor and aesthetics which makes it unlikely that any part of the superblock will redevelop while the businesses continue to operate.

The Hardman Triangle IS NOT part of the scope of this Corridor Vision and Zoning Ordinance Update project, the City views the Hardman Triangle as being a separate project. The City completed a small area plan and market study for the Hardman Triangle superblock in 2019 and is currently assessing “next steps” regarding implementation of the small area plan. The consultant team will be expected to review the 2019 Hardman Triangle Plan because it provides context regarding South St. Paul’s real estate market as well as insight into the City Council’s aesthetic preferences regarding new buildings along Concord Street.
GENERAL PROJECT DESCRIPTION

Management of the Project:

City Planner Michael Healy will be the project manager for the project. Michael will be the first point of contact on behalf of the City of South St. Paul and will work closely with the consultant team.

Michael Healy
Community Development Department
South St. Paul City Hall
125 3rd Ave. N.
South St. Paul, MN 55075
Office Phone: 651-554-3217
Email: mhealy@southstpaul.org

Project Needs:

The City is soliciting proposals from firms to provide assistance in accomplishing two goals:

1. Developing a cohesive vision for the North Concord corridor.

2. Drafting an ordinance amendment to update the North Concord Mixed-Use (NCMU) zoning district development standards to implement the new vision.

The City does not expect or desire that a formal small area plan be developed for the North Concord corridor. The City anticipates that the “corridor vision” will be a short purpose statement that outlines the aesthetic goals and development goals for the corridor and gives an overview of what values will be in place for development in the corridor (i.e. how does the City balance the needs of the business community, current and future city residents and corridor residents, and environmental concerns regarding the river and the bluffs). Once completed, the corridor vision will provide the foundation for the update to the NCMU ordinance.

The existing NCMU ordinance takes a form-based approach to development regulation and is based on design principles laid out in the previously mentioned 2003 small area plan, the “Concord/Grand Gateway Streetscape and Redevelopment Plan.” The City anticipates that revisions to the NCMU Code will include an update of the list of allowed uses as well as a comprehensive update of the form-based site design and building design standards. Many of the design standards laid out in the existing NCMU ordinance, such as the exterior building materials requirements, appear to be out of alignment with what the market can support in South St. Paul. The consultant team should include individuals with urban design experience who can advise the City on ways to revise the development standards to be more realistic and allow cost-effective development and redevelopment without sacrificing good design.

Sharing of Information:

The consultant shall host a permanent ftp site (i.e. Dropbox or Google Drive) to allow the project management team to share and receive files between agencies.

References:

City Code Section 118-127 North Concord Mixed-Use Zoning District
and other City Codes (available via City website)

City Code Section 118-167 Mississippi River Corridor Zoning
(available via City website)
2003 Concord/Grand Gateway Streetscape and Redevelopment Plan (available via City website)

DNR Model Ordinance for Planned 2023 MRRCA Ordinance Update (https://www.dnr.state.mn.us/waters/watermgmt_section/critical_area/local-government-administration.html)

2040 Comprehensive Plan (available via City website)

2019 Hardman Triangle Small Area Plan and Market Analysis (available via City website)

**Maximum Project Budget:**

The City has secured a $30,000 SHIP grant from Dakota County to fund the project and the City is seeking a consultant that can work within a “not to exceed” budget of $30,000.

The consultant is asked to approach the budget and project scope with the understanding that City Staff resources are available, as needed, to support the consultant team. City Planner Michael Healy anticipates being highly involved in the project. The City’s “Community Development Specialist,” Monika Mann, can also be deployed as needed in support of the project.

**DESCRIPTION OF PROPOSALS**

1. The proposal text shall be concise, effective, and relevant for communicating the consultant team’s approach to the project. Please limit your response to no more than fifteen (15) pages total. Additional drawings or information ancillary to the proposal shall be placed in an Appendix at the back of the proposal, and will not be counted against the page limit.

2. Proposals shall be prepared on 8-1/2” x 11” format, with sequentially numbered pages throughout the report or by section. Exhibits and/or layouts may be on 11” x 17” folded format. Larger figures/layouts, CDs, etc., shall be carefully considered as needed before including this content within the proposal. All exhibits should be succinct and relevant to the RFP requirements.

3. The City shall not be liable for any pre-contractual expenses incurred by the consultant in the preparation of their proposals. Consultants shall not include any such expenses as part of their proposals.

   Pre-contractual expenses are defined as expenses incurred by the consultant in:
   a. Preparing its proposal in response to this RFP;
   b. Submitting that proposal to the City;
   c. Negotiating with the City on any matter related to this RFP;
   d. Any other expenses incurred by the consultant prior to the date of execution of the proposed agreement.

4. Any exceptions to the requirements in this RFP must be included in the proposal submitted by the consultant. Segregate such exceptions as a separate element of the proposal under the heading “Exceptions and Deviations.”
5. By submitting a proposal, the consultant represents that they have thoroughly examined and became familiar with the work required under this RFP and that they are capable of performing quality work to achieve the objectives of the City.

DESCRIPTION OF CORRIDOR VISION AND NCMU ZONING CODE UPDATE TASKS AND DELIVERABLES

The consultant will be required to furnish all labor, materials, transportation, supplies, equipment, etc. necessary for the completion of the following work:

PROJECT ORIENTATION AND ISSUE/OPTIMITY IDENTIFICATION

Task 1 - Project Management:

1.1 The project manager shall ensure that deliverables are on time and regular phone/e-mail communication with the City project manager is provided throughout the project. The consultant selected shall provide a schedule with associated tasks and deliverables.

1.2 The project manager shall coordinate with any sub-consultants as necessary to complete all of the deliverables stated below.

1.3 The project manager shall provide a schedule of work tasks required/completed with monthly updates. The City shall be billed monthly throughout the duration of the project, no later than ten (10) days after the completion of each month. All invoices shall clearly define the percentage of project completion and the percentage of project billed to date for each work task and the total project.

1.4 The consultant shall assist the City in developing content for a project page that will be hosted on the City’s website.

1.5 Consultants shall comply with the City’s Standard Agreement for consulting services as shown in the Attachments.

Task 2 – Issue Identification

2.1 The consultant team will join City Staff on a tour of the corridor and review the land use challenges and opportunities that have already been identified by City Staff.

2.2 The consultant team and City Staff will facilitate at least one joint worksession with the Planning Commission and City Council to review the status of the corridor and identify strengths, weaknesses, opportunities, and threats that will affect the project.

PUBLIC AND AGENCY INVOLVEMENT

Task 3 – Public Participation

3.1 The consultant will work with City Staff and Dakota County Staff to prepare a public engagement plan. Per Dakota County SHIP grant guidelines, the engagement plan should be developed in collaboration with the County and, if applicable, should include ways to involve representatives from target populations such as seniors and low-income and diverse populations. The City anticipates having a moderate amount of public engagement for this project.
3.2 As needed, the consultant shall attend and prepare presentation materials for up to three (3) City Council meetings/work sessions and/or Planning Commission meetings at the City (may be held jointly).

3.3 The consultant team shall facilitate at least one (1) open house-type event. Depending on the status of the Covid-19 pandemic, this event may need to be held virtually or with a virtual component.

3.4 The consultant team shall assist City Staff in preparing an informational mailing about the project to send to the owners of affected properties. The consultant team shall assist City Staff in preparing a survey to assess community preferences regarding the future of the North Concord Corridor.

CORRIDOR VISION PREPARATION

Task 4 – Development of Corridor Vision

4.1 Based upon input given by the Planning Commission, City Council, and the community, the consultant team shall prepare a “corridor vision.” This short document will outline the aesthetic goals, development goals, and general values that will be in place for the City’s planned redevelopment of the North Concord corridor as a mixed-use district. City Staff will bring the corridor vision to the City Council for review and approval to ensure that there is full ownership of the project before the draft ordinance amendment is finalized and brought forward for formal review.

ORDINANCE AMENDMENT PREPARATION

Task 5 – Development of Ordinance Amendment

5.1 The consultant team, in collaboration with City Staff, will prepare a draft ordinance amendment to update the NCMU zoning district code to reflect the goals laid out in the corridor vision and incorporate input collected during public engagement and City Council/Planning Commission meetings.

5.2 The consultant team will provide logistical support to City Staff while the ordinance amendment goes through the formal review and approval process (one Planning Commission meeting and a first and second reading at two separate City Council meetings). The consultant team is not expected to attend each meeting but shall assist City Staff in revising the draft ordinance based on any feedback received from the policymakers during the course of the formal review process.

Task 6 – Development of Graphics Depicting the Revised Design Standards

6.1 The 2003 “Concord/Grand Gateway Streetscape and Redevelopment Plan” includes a graphic depicting the CGMU/NCMU zoning district site design standards and a second graphic depicting the CGMU/NCMU zoning district building design standards. If needed, the consultant team will prepare revised graphics that reflect the changes that have been made to the NCMU design standards.
1. Public outreach via website / newsletter

2. Corridor orientation for consultant team.


4. Public participation mailing lists and envelopes.

5. Presentations to the Planning Commission, City Council, and other impacted stakeholders

*The $30,000 Dakota County SHIP grant requires that the City provide at least a 10% match. The City is planning to provide this with an “in-kind” contribution of Staff time. City Staff will be a strong and involved partner in completing this project.

ANTICIPATED DELIVERABLES

- Corridor Vision (See 4.1)

- Ordinance Amendment to Update the North Concord Mixed-Use Zoning District (see 5.1 & 5.2)

- Graphic Illustrating Form-Based Code Regulations (see 6.1)

PROJECT SCHEDULE

The following is the desired schedule for the project:

<table>
<thead>
<tr>
<th>Action</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Released</td>
<td>January 12, 2021</td>
</tr>
<tr>
<td>Proposals received by the City</td>
<td>February 17, 2021</td>
</tr>
<tr>
<td>City Council Approved Consultant Selection</td>
<td>March 1, 2021</td>
</tr>
<tr>
<td>Execution of Contract with the City</td>
<td>Ideally on March 1, 2021 but no later than March 15, 2021</td>
</tr>
<tr>
<td>Authorization to proceed</td>
<td>After Execution of Contract</td>
</tr>
<tr>
<td>Project Kickoff and Advancement</td>
<td>Immediately after Contract Execution</td>
</tr>
<tr>
<td>Completion of Corridor Vision</td>
<td>On or Before June 15, 2021</td>
</tr>
<tr>
<td>Completion of Draft Ordinance Amendment</td>
<td>On or Before August 6, 2021</td>
</tr>
<tr>
<td>Review of Ordinance Amendment by Planning Commission</td>
<td>September 1, 2021</td>
</tr>
<tr>
<td>First Reading of Ordinance Amendment by City Council</td>
<td>September 20, 2021</td>
</tr>
<tr>
<td>Second Reading of Ordinance Amendment by City Council and Approval of Ordinance Amendment</td>
<td>October 4, 2021</td>
</tr>
<tr>
<td>Completion of Graphics Illustrating Code Regulations</td>
<td>October 18, 2021</td>
</tr>
</tbody>
</table>

*The SHIP grant requires that all reimbursable consultant work be completed by October 31, 2021. The project schedule listed above is the City’s preference. If necessary, however, the scope of this project can be modified so that the consultant team completes all required tasks and generates deliverables prior to October 31, 2021 and City Staff then takes the ordinance amendment through the formal review and approval process without continued support from the consultant.

Consultant Provided Schedule:

The consultant selected shall provide a schedule with associated tasks and deliverables. See aforementioned description of services and deliverables.

SUBMITTAL REQUIREMENTS
General Information:

1. Addenda/Clarifications. Any changes to this RFP will be made by the City through a written email addendum. No verbal modification will be binding.

2. Contract Award: Issuance of this RFP and receipt of proposals do not commit the City to the awarding of the contract. The City reserves the right to postpone opening for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with other than the selected consultant, should negotiations with the selected consultant be terminated, to negotiate with more than one consultant simultaneously, or to cancel all or part of this RFP.

City Rights: The City may investigate the qualifications of any consultant under consideration, require confirmation of information furnished by the consultant, and require additional evidence of qualifications, to perform the work described in this RFP. The City reserves the right to:

a. Reject any or all proposals if such action is in the public interest;
b. Cancel the entire Request for Proposals;
c. Issue a subsequent Request for Proposals;
d. Remedy technical errors in a Request for Proposals process;
e. Appoint evaluation committees to review the proposals;
f. Establish a short list of consultants eligible for interview after evaluation of proposals;
g. Negotiate with any, all, or none of the RFP consultants; and
h. Reject and replace one or more subcontractors.

3. Independent Price Determination: Applicants are held legally responsible for their information and budget. Applicants are not to collaborate, for the purpose of restricting competition, with other applicants or competitors in developing proposals and budgets.

4. Independent Contractor Status: The consultant will be an independent consultant; nothing contained in any contract awarded shall be construed to create the relationship of employer and employee between City and the consultant. The consultant is not entitled to receive any of the benefits by City employees and is not eligible for workers’ or unemployment compensation benefits. The consultant understands that no withholding or deduction for state or federal income taxes, FICA, FUTA, or otherwise, will be made from payments due the consultant and that it is the consultant’s sole obligation to comply with the applicable provisions of all federal and state tax laws.

5. Contract Type: A contract will be executed between the City and a prime consultant firm. In the case of a project team of multiple consultants, a prime consultant firm shall be responsible for subcontracting with the other consultant firms. There will be no legal relationship with the City and the subcontracting consultant firms. The prime and subcontracting consultant firms shall be responsible in providing the required submission information via a single proposal.
Letter of Submittal Inclusions:

1. Name, address, phone number, and email from the firm’s client representative;
2. Acknowledgement of receipt of RFP addenda, if any;
3. Name, title, address, telephone, fax numbers, and email address, of contact person during the period of evaluation;
4. A statement to the effect that the proposal shall remain valid for a period of not less than 120 days from the date of submittal; and
5. Signature of a person authorized to bind the offering firm to the terms of the proposal.

Minimum Proposal Requirements:

1. Briefly describe the project understanding and approach used by your firm. Give a brief description of issues you believe significant on this project; how you intend to use existing information to help limit project costs; any unique options to be pursued for this project; and a brief outline of your project approach.

Key Personnel:

a. Project Manager: Provide a description of the Project Manager and their qualifications for this project and a detailed list of previous projects worked on with the firm that are relevant to the project. If it is possible that more than one project manager will be assigned to various specialty areas, please provide multiple descriptions.

b. Key Support Personnel: Provide a brief list of key personnel that will be assigned to this project. Identify the areas of expertise for project personnel and experience working with project managers on previous projects.

2. Previous experience with zoning studies and updating mixed-use development standards. Describe previous projects that the Project Team has completed.

3. Sub-consultants. Describe the name and location of other sub-consultants that would be used by the firm for the project. Identify the approximate percentage of the work that would be performed by each of these firms. Describe previous projects on which the consultant and sub-consultants have collaborated.

4. Fee Estimate. Provide an estimate of the total project costs per the defined scope of work. The fee estimate shall be broken into work tasks with an hourly estimate of time required by each project personnel or sub-consultant. Any allowances for project costs, such as mileage or indirect office costs should be identified. The actual fee will be based on hourly and reimbursable costs with a not-to-exceed maximum contract amount.
The fee proposal shall be structured as follows:

<table>
<thead>
<tr>
<th>Task</th>
<th>Project Manager</th>
<th>Descending order of responsibilities</th>
<th>Sub-consultants</th>
<th>Expenses (Total mileage, etc.)</th>
<th>Total Hours</th>
<th>Cost per Task</th>
<th>Total Cost per Deliverable</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. (Ex. Planning)</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Task Sub-total Hours</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Descending task per proposal</td>
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<td></td>
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<tr>
<td>Total Hours</td>
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<tr>
<td>Cost per Hour</td>
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<tr>
<td>Total Cost</td>
<td></td>
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</tr>
</tbody>
</table>

5. Statement of Compliance: The consultant will need to include a Statement of Compliance to the terms identified for Standard Assurances, and Insurance Terms.

6. Conflict of Interest. The Consultant must identify any potential conflict of interest it may have providing the services contemplated by this RFP.

7. Other information you believe may be valuable in reviewing the qualifications of your firm/team.

**EVALUATION REQUIREMENTS**

A review of each proposal by the City will identify the consultant firm that most closely meets the needs for the project. Upon review of the proposals, top candidate firm(s) may be asked to make a presentation and be interviewed by the selection committee.

Factors to be considered by the selection committee will include, but not be limited to the following:

1. Qualifications and experience of the firm relating to previous similar projects.
2. Project Team – qualifications and experience of the Project Manager and key staff proposed to work on the project, experience on previous similar projects, and availability of the key staff members.
3. Grasp of project requirements – the firm’s analysis, interview preparation (if needed) and level of interest.
5. Responsiveness – compatibility between consultant and the member agencies, general attitude, ability to communicate with each of the agencies.
6. Fee estimate – understanding total project cost and cost control measures identified.
SUBMISSION DEADLINE

Four (4) copies of the proposal and one (1) electronic copy (.pdf format) shall be submitted by 12:00 p.m., local time, on February 17, 2021, to the address given below:

Michael Healy  
Community Development Department - Planning Division  
South St. Paul City Hall  
125 3rd Ave. N.  
South St. Paul, MN 55075 Office  
Phone: 651-554-3217  
Email: mhealy@southstpaul.org

Questions regarding this RFP and the project should be directed to Michael Healy at 651-554-3217 (mhealy@southstpaul.org). Late proposals may not be accepted at the City’s discretion.

CONTRACT

The term of the contract to be awarded under this RFP will be from the date executed by all parties until services are complete. The City will prepare a contract with the selected Consultant. The City will use its standard contract terms and conditions, which are available upon request. The selected Consultant must be willing to sign a contract that will incorporate the RFP plus attachments, the response to the request for proposal and any other terms negotiated by the parties.

ATTACHMENTS

A- Zoning Map Showing North Concord Mixed-Use Zoning District in Dark Purple

B- South St. Paul Standard Agreement for Consulting Services
This Zoning map is a representation of various maps and ordinances that make up the City of South St. Paul zoning code. Percentage of Acreage is calculated from county parcel data. Results are representational and not to be used for purposes other than zoning. For detail information pertaining to a specific property or zoning district, please contact the City of South St. Paul Planning Department at http://www.southstpaul.org/
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT ("Agreement") is made and executed this _____ day of ______, 2021, by and between the City of South St. Paul, 125 3rd Avenue North, Minnesota 55075, ("City") and ___________________ ("Consultant").

WHEREAS, the City has accepted the proposal of the Consultant for certain professional Services; and

WHEREAS, Consultant desires to perform the Services for the City under the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual consideration contained herein, it is hereby agreed as follows:

1. SERVICES.
   a. City agrees to engage Consultant as an independent contractor for the purpose of performing certain professional Services ("Services"), as defined in the following documents:
      i. A proposal dated __________, incorporated herein as Exhibit 1;
      ii. Other documentation, incorporated herein as Exhibit 2.

         (Hereinafter “Exhibits.”)
   b. Consultant agrees to provide Services to the satisfaction of the City in a timely fashion, as set forth in the Exhibits, subject to Section 7 of this Agreement.

2. PAYMENT.
   a. City agrees to pay and Consultant agrees to receive and accept payment for Services as set forth in the Exhibits.

   b. Any changes in the scope of the work of the Services that may result in an increase to the compensation due the Consultant shall require prior written approval by the authorized representative of the City or by the City Council. The City will not pay additional compensation for Services that do not have prior written authorization.

   c. Consultant shall submit itemized bills for Services provided to City on a monthly basis. Bills submitted shall be paid in the same manner as other claims made to City.
3. **TERM.** The term of this Agreement is identified in the Exhibits. This Agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the same terms and conditions as herein stated.

4. **TERMINATION.**

   a. **Termination by Either Party.** This Agreement may be terminated by either party upon 30 days’ written notice delivered to the other party to the addresses listed in Section 13 of this Agreement. Upon termination under this provision, if there is no default by the Consultant, Consultant shall be paid for Services rendered and reimbursable expenses until the effective date of termination.

   b. **Termination Due to Default.** This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure that is acceptable to the other party.

5. **SUBCONTRACTORS.** Consultant shall not enter into subcontracts for any of the Services provided for in this Agreement without the express written consent of the City, unless specifically provided for in the Exhibits. The Consultant shall pay any subcontractor involved in the performance of this Agreement within the ten (10) days of the Consultant’s receipt of payment by the City for undisputed services provided by the subcontractor.

6. **STANDARD OF CARE.** In performing its Services, Consultant will use that degree of care and skill ordinarily exercised, under similar circumstances, by reputable members of its profession in the same locality at the time the Services are provided. Contractor agrees to comply with all federal, state and local laws and ordinances applicable to the Services to be performed under this Agreement, including all safety standards. The Contractor shall be solely and completely responsible for conditions of the job site, including the safety of all persons and property during the performance of the Services. The Contractor represents and warrants that it has the requisite training, skills, and experience necessary to provide the Services and is appropriately licensed by all applicable agencies and governmental entities.

7. **DELAY IN PERFORMANCE.** Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either City or Consultant under this Agreement. If such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the
circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Consultant will be entitled to payment for its reasonable additional charges, if any, due to the delay. Both the City and the Consultant acknowledge that this project will take place during the Covid-19 pandemic and agree that the pandemic will not be used to justify delays in performance aside from any normal delays that may result from an individual falling ill.

8. **CITY’S REPRESENTATIVE.** The City has designated Michael Healy to act as the City’s representative with respect to the Services to be performed under this Agreement. He or she shall have complete authority to transmit instructions, receive information, interpret, and define the City’s policy and decisions with respect to the Services covered by this Agreement.

9. **PROJECT MANAGER AND STAFFING.** The Consultant has designated ___________ ___________ and _________________ to be the primary contacts for the City in the performance of the Services. They shall be assisted by other staff members as necessary to facilitate the completion of the Services in accordance with the terms established herein. Consultant may not remove or replace these designated staff without the approval of the City.

10. **INDEMNIFICATION.**

   a. Consultant and City each agree to defend, indemnify, and hold harmless each other, its agents and employees, from and against legal liability for all claims, losses, damages, and expenses to the extent such claims, losses, damages, or expenses are caused by its negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of Consultant and City, they shall be borne by each party in proportion to its own negligence.

   b. Consultant shall indemnify City against legal liability for damages arising out of claims by Consultant’s employees. City shall indemnify Consultant against legal liability for damages arising out of claims by City’s employees.

11. **INSURANCE.** During the performance of the Services under this Agreement, Consultant shall maintain the following insurance:

   a. Commercial General Liability Insurance, with a limit of $2,000,000 for any number of claims arising out of a single occurrence, pursuant to Minnesota Statutes, Section 466.04, or as may be amended;

   b. Professional Liability Insurance, with a limit of $2,000,000 for any number of claims arising out of a single occurrence.

   c. Workers’ Compensation Insurance in accordance with statutory requirements.
d. Automobile Liability Insurance, with a combined single limit of $1,000,000 for each person and $1,000,000 for each accident.

Consultant shall furnish the City with certificates of insurance, which shall include a provision that such insurance shall not be canceled without written notice to the City. The City shall be named as an additional insured on the Commercial General Liability Insurance policy and the Professional Liability Insurance policy.

12. OWNERSHIP OF DOCUMENTS. Professional documents, drawings, and specifications prepared by the Consultant as part of the Services shall become the property of the City when Consultant has been compensated for all Services rendered, provided, however, that Consultant shall have the unrestricted right to their use. Consultant shall retain its rights in its standard drawing details, specifications, databases, computer software, and other proprietary property. Rights to proprietary intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of the Consultant.

13. NOTICES. Notices shall be communicated to the following addresses:

If to City: City of South St. Paul
125 3rd Ave. N.
South St. Paul, MN 55075
Attention: Michael Healy, City Planner

Or emailed:

If to Consultant:

Or emailed:

14. INDEPENDENT CONTRACTOR STATUS. All services provided by Consultant, its officers, agents and employees pursuant to this Agreement shall be provided as employees of Consultant or as independent contractors of Consultant and not as employees of the City for any purpose.

15. GENERAL PROVISIONS.

a. Assignment. This Agreement is not assignable without the mutual written agreement of the parties.

b. Waiver. A waiver by either City or Consultant of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party’s rights with respect to any other or further breach.
c. **Amendments.** Any modification or amendment to this Agreement shall require a written agreement signed by both parties.

d. **Governing Law.** This Agreement shall be construed in accordance with the laws of the State of Minnesota and any action must be venued in Dakota County District Court.

e. **Severability.** If any term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining terms of this Agreement, which shall continue in full force and effect.

f. **Data Practices Compliance.** All data collected by the City pursuant to this Agreement shall be subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13.

g. **Entire Agreement.** This Agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

[remainder of page intentionally blank]
CITY OF SOUTH ST. PAUL

By: ________________________________________
James P. Francis, Mayor

By: ________________________________________
Christy Wilcox, City Clerk

Date: ______________________________
CONSULTANT

By: __________________________

Its: __________________________

Date: __________________________
AGENDA ITEM:  Seidl’s Lake Lift Station Update

DESIRED MEETING OUTCOMES:  INPUT FROM COUNCIL ON MOVING FORWARD WITH THE REVISED SEIDL’S LAKE LIFT STATION PROJECT

OVERVIEW:

In 2019, the City received a General Obligation Bond Grant from the State of Minnesota in the amount of $781,000 for the construction of the Seidl’s Lake Lift Station. The project was designed and bid in conjunction with the 4th Street Reconstruction Project in early 2020. The low bid for the lift station was $1,652,607 which was over $200,000 more than the Engineer’s Estimate and more than double the amount received from the grant funding. Furthermore, that amount did not include the force main connection to the storm sewer system which was bid as part of the 4th Street reconstruction project. Due to those factors, Council rejected all bids.

Staff has been working with WSB to value engineer the lift station project. Upon review of all the information, we have developed a new plan for the lift station that could be constructed at or near the amount of the grant funding. The new plan would be to construct a smaller capacity lift station that would have a pumping capacity of 5 cubic feet/second (cfs) versus the original 10 cfs design. The original design, which is based on a 2004 feasibility study, contemplated lowering the lake to an elevation of approximately 805, which is 1.5 feet below the ordinary high-water mark (OHW) established by the DNR. In recent conversations with the DNR, they are of the opinion that the OHW may have reestablished at a higher level. Currently, the water level is approximately 4 feet below the lowest point on the trail, or approximately an elevation of 808. WSB’s analysis shows that the current trail elevation may be inundated every few (4-5) years with the smaller lift station but much of the time, would be above water. In addition, instead of a permanent wet well type lift station, we are proposing a skid pump that could be installed along the existing path on the north side of the lake (see attached photo). With the smaller capacity lift station, the force main can be downsized to 6” diameter pipe instead of the original design of 18” diameter pipe.

Both staff and WSB feel that the lift station and force main can be constructed at or near the $781,000 bonding amount. If Council agrees with this approach, staff will bring a proposal from WSB for the revised design for approval at a future council meeting. We will also be asking WSB to provide inspection services for the project given Tom Madigan will be committed to the Concord project.

In conjunction with this decision, staff would also recommend we move ahead with the reconstruction of 4th Street at the same time to avoid inconveniencing the neighborhood due to multiple projects and to the potential to accrue some savings to the street project due to the force main downsizing.
main installation. Given the 4th Street project is all side yard frontages, no special assessments were planned to be levied pursuant to our policy. The bid for that component came in at $1,343,848.42 which was more than $100,000 under the Engineer’s Estimate.

Finally, it should be understood that the State Funding needs to be expended in calendar year 2021. If we think additional funding or time is needed, we will need to pursue legislative modifications to address those changes and to preserve the previous allocation.

**SOURCE OF FUNDS:**

- General Obligation Bond Grant
- Capital Project Funds
- Possible West St. Paul & Inver Grove Heights Cost Participation
SKID PUMP
AGENDA ITEM:  2021 State Bonding Priorities

DESIRED MEETING OUTCOMES:

DISCUSS CITY PRIORITIES FOR STATE FINANCING SHOULD A BONDING BILL BE DEVELOPED DURING THE 2021 LEGISLATIVE SESSION

OVERVIEW:

Representative Rick Hansen suggested we prepare some “asks” should a bonding bill be developed during the upcoming legislative session. I have a call into him asking for some additional guidance on a few issues, but here are some possibilities for your consideration:

- Seidl’s Lake Additional Funding & Time – see Agenda Item #5 for additional information on this topic.
- HVAC Improvements for Rink #1 - $450,000
- Other Improvements at Woog Arena (Rink #1 Floor & Board Replacement - $800,000, Bleacher improvements, other)
- Library Project/Study – at a meeting in November of last year, Representative Hansen suggested we may want to seek funding for a Net Zero Library project. The challenge in seeking funding for a library is the Dakota County decision making process. For what it is worth, libraries as “stand-alone” projects historically have not done well in terms of funding through the legislature.
- New Public Works Building?
- Other

Hopefully, I will have connected with Representative Hansen before Monday’s meeting to offer some additional guidance on this topic.

SOURCE OF FUNDS:

N/A
AGENDA ITEM: Review/Modify COVID-19 Meeting Protocol

DESIRED MEETING OUTCOMES:

Review current practices for Council and Work Session meeting in terms of in-person versus virtual and social distancing measure to determine if any modifications are necessary.

OVERVIEW:

Since the onset of the COVID-19 pandemic, the City has modified its meeting procedures to comply with social distancing requirements. Currently, regular Council Meetings (1st & 3rd) Mondays are held live in the Council Chambers. Council Members have the option of joining via WebEx Citizens instead of in-person attendance to enhance personal safety. The public can also join via phone through WebEx, Watch on Government Channel 19, or request the Audio/Visual WebEx connection. Work Sessions have been held virtually via WebEx. Citizens can join with a phone or request the AV connection link.

The purpose of tonight’s discussion is to determine if any modifications should be made to our meeting procedures. One specific item that also needs attention is a request by Council Member Kaliszewski to increase spacing between Council Members. One option to do this would be to have Council Member Kaliszewski take my seat next the City Attorney. I could move next to the City Clerk during live Council meetings. During meetings of the EDA, Ryan Garcia would take my place and I would sit in the audience.

Staff is looking for the Council to comment on possible modifications we should consider to our meeting procedures.

SOURCE OF FUNDS:

N/A
AGENDA ITEM:  Review Solar Garden Program

DESIRED MEETING OUTCOMES:

♦ Discuss the proposed Solar Garden Program offered through Nokomis Energy and Xcel
♦ Determine our interest in participating

OVERVIEW:

In 2018 and 2019, the City participated in a study originated through CERTS (Clean Energy Resource Teams) that evaluated the placement of solar arrays on various City buildings. Due to concerns over impacts to buildings and the limited payback, we chose not to pursue that option.

More recently, another option was presented to us whereby we participate in an off-site solar garden. Our level of participation is based on our current energy usage at four city sites with a guaranteed bill credit of $.01 per kilowatt generated based on our 2.5 million of kilowatt hours used by these facilities.

As the attached Proposal Highlight sheet indicates, the advantages of this program are as follows:
❖ No impacts to our facilities
❖ No upfront costs
❖ “Savings Only” contract based on $.01 per kilowatt hour of solar generation
❖ Promotes our Green initiatives

As a point of comparison between this proposal and what we looked at in 2018, in 2018, the total simple savings at year 25 were projected at $97,712 versus $592,200 projected over the same period in the Nokomis proposal. I have also attached the Xcel Energy Solar Rewards Community Electric Bill Credit Rates Information Sheet which does correlate with the Nokomis proposal in terms of the Xcel credits offered.

Cody Capra of Apex will be available during Monday’s meeting to answer any questions you may have.

SOURCE OF FUNDS:

N/A
COMMUNITY SOLAR GARDEN SUBSCRIPTION AGREEMENT

GENERAL TERMS AND CONDITIONS

This Community Solar Garden Subscription Agreement (“Agreement”) is entered into as of the ___ day of ____________, 2020 (the “Effective Date”) by and among Nokomis Energy LLC, a Minnesota limited liability company (“Nokomis”) and the City of South Saint Paul, a municipal government (“Subscriber”). Nokomis and Subscriber may be referred to individually as a “Party” and collectively as “the Parties.”

RECITALS

WHEREAS, Nokomis is a developer and operator of solar (photovoltaic) electric generation facilities qualified as “Community Solar Gardens” (“CSG”) pursuant to Minn. Stat. 216B. 1641 (“CSG Program”) and has entered or will enter into a Standard Contract for Solar Rewards Community (“CSG Contract,” attached as Exhibit A) with Northern States Power Company, a subsidiary of Xcel Energy, Inc. (“XCEL”);

WHEREAS, Nokomis will deliver the energy produced by the CSG(s) to XCEL, which will provide bill credits (“Bill Credits”) for those XCEL customers who are subscribers of Nokomis;

WHEREAS, Subscriber desires to become a CSG subscriber by making monthly payments in exchange for a percentage allocation of the energy produced by the CSG(s) and the corresponding Bill Credits on Subscriber’s XCEL bill;

THEREFORE, in consideration of the foregoing recitals, the mutual promises, representations, warranties, covenants, conditions contained herein, and the Garden Terms and Conditions and Exhibits attached hereto, the Parties agree as follows:

1. **Exclusive Allocation.**

Subscriber grants to Nokomis the exclusive right to subscribe its XCEL electricity load as defined below to a Nokomis CSG (“Exclusive Allocation”).

<table>
<thead>
<tr>
<th>Xcel Account No:</th>
<th>Premise No:</th>
<th>Xcel Account Address</th>
<th>Load Allocation *</th>
</tr>
</thead>
<tbody>
<tr>
<td>5844319</td>
<td>304196856</td>
<td>259 17th Avenue, South St. Paul, MN 55075</td>
<td>120%</td>
</tr>
<tr>
<td>5660593</td>
<td>303677092</td>
<td>141 6th Street, South St. Paul, MN 55075</td>
<td>120%</td>
</tr>
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*Load allocation must be in accordance with Xcel Terms & Conditions as stated on sheet 9-65 of Minnesota Electric Rate Book MPUC No. 2: [https://www.xcelenergy.com/staticfiles/xr/PDF/Regulatory/Me_Section_9.pdf](https://www.xcelenergy.com/staticfiles/xr/PDF/Regulatory/Me_Section_9.pdf)

Subscriber agrees not to subscribe, assign, allocate or otherwise provide the Exclusive Allocation to another CSG, developer or other distributed generation resource serving the Subscriber Site, without
Nokomis’ prior written consent, which it may withhold in its sole discretion, for two (2) years from the Effective Date of this Agreement.

2. Community Solar Garden Terms and Conditions.

Nokomis will make a good faith effort to subscribe the entire Exclusive Allocation to one or more Nokomis CSG(s) (each a “Facility”), as set forth in the Garden Terms and Conditions attached hereto. For each such successful allocation to a Facility, the parties shall execute a copy of the Garden Terms and Conditions. All subscriptions will provide a rate of one cent(s) per kWh ($0.01/kWh) for each Bill Credit generated. Exhibit B to the Garden Terms and Conditions will contain a specific rate schedule for Subscriber’s Allocation at each Facility.

The Garden Terms and Conditions for each Facility (attached hereto) contain the Facility’s generating capability (“Facility Capacity”), the location of each Subscriber premise whose load is subscribed to that Facility (“Subscriber Site”), the percentage of Facility Capacity assigned to Subscriber (“Subscriber’s Allocation”), and Subscriber’s Allocation represented in kWDC (“Allocation Amount”).

These general terms and conditions are explicitly incorporated into each Garden Terms and Conditions and together form one Community Solar Garden Subscription Agreement.

3. Term.

This Agreement commences on the Effective Date, and unless earlier terminated pursuant to the provisions herein, shall terminate on the 25th anniversary of the Commercial Operation Date (as defined below) (the “Term”). The Term shall not be extended by virtue of any period of disconnection or event of Force Majeure experienced by the Facility.

4. Operation of the Facility.

a. Nokomis shall promptly notify Subscriber of the Date of Commercial Operation of each Facility as established pursuant to the CSG Contract (“Commercial Operation Date”).

b. Nokomis shall operate the Facility during the Term so as to deliver all energy generated by the Facility to XCEL in accordance with the CSG Contract and applicable XCEL tariffs. Nokomis shall maintain the Facility in good working order at all times during the Term, and shall operate the Facility in a manner reasonably intended to maximize the amount of Bill Credits allocable to Subscriber, consistent with good custom and practice for operation of electricity generating facilities.

c. Nokomis will provide written notice to Subscriber when it becomes aware the Facility is out of service for longer than two (2) consecutive weeks, which notice shall include an estimate of how long the outage will last and the estimated loss of electricity production.

d. All installations, upgrades and repairs will be under direct supervision of a qualified professional and that maintenance will be performed according to industry standards, including the recommendations of the manufacturers of solar panels and other operational components. A copy of the solar panel module warranty for the solar panel modules installed or to be installed at Facility is attached as Exhibit F to the Garden Terms and Conditions. Nokomis’ long-term maintenance plan is attached as Exhibit G to the Garden Terms and Conditions.

5. Subscriber Eligibility
In order to purchase Subscriber’s Allocation under this Agreement and receive the corresponding Bill Credits, Subscriber must meet the following criteria:

a. Subscriber must be an XCEL Customer and Account Holder;

b. The Subscriber Site must be located within the county or an adjacent county as the Facility;

c. Subscriber’s Allocation may not exceed forty percent (40%) of the Facility Capacity;

d. The Allocation Amount, combined with other distributed generation resources serving the Subscriber Site, cannot exceed one hundred and twenty percent (120%) of the Subscribers average annual energy usage for the twenty-four (24) months prior to the Effective Date;

e. The Allocation Amount must be at least two hundred (200) watts; and

f. Subscriber must be deemed credit worthy by Nokomis at the Effective Date, in Nokomis’ sole and absolute discretion.

6. Subscriber’s Allocation; Sale and Purchase of Bill Credits

a. Nokomis agrees to sell to Subscriber and Subscriber agrees to purchase from Nokomis, Subscriber’s Allocation and the right to receive corresponding Bill Credits for the Term.

b. Subscriber agrees not to install or procure any other distributed generation serving Subscriber’s premise during the Term that would cause Subscriber to no longer be eligible to purchase the exclusive allocation.

c. If the actual capacity of the Facility at the Commercial Operation Date (“Actual Capacity”) is different than the Facility Capacity set out above, the Allocation Amount shall be automatically amended upon notice to Subscriber to reflect the lesser of (1) the product of Subscriber’s Allocation multiplied by the Actual Capacity, or (2) the maximum Allocation Amount for which the Subscriber is eligible under the CSG Program.

d. The Bill Credits on Subscriber’s monthly XCEL bill will equal the product of (i) Subscriber’s Allocation, (ii) the number of kilowatt hours of electrical energy the Facility generated in the previous month, and (iii) the Value of Solar Tariff Rate applicable to the Facility, as approved by the Minnesota Public Utilities Commission and calculated by XCEL (“Bill Credit Rate”). The Bill Credit Rate is estimated in the Schedule of Expected Deliveries of Bill Credits attached as Exhibit B to the Garden Terms and Conditions.

e. Subscriber shall not be entitled to the benefits or derivatives of Renewable Energy Credits (“RECs”), rebates, unsubscribed electrical energy, tax credits, or other tax or environmental benefits associated with owned or operating the Facility.

f. For Subscriber’s Allocation and the right to receive corresponding Bill Credits, Subscriber agrees to pay Nokomis an amount (the “Monthly Subscription Payment”) equal to the product of (i) Subscriber’s Allocation, (ii) the number of kilowatt hours of electrical energy the Facility generates in the previous month, and (iii) the “Subscription Rate” (Exhibit B to the Garden Terms and Conditions provides a schedule of the Subscription Rate over the course of the Term).
g. The amount of electrical energy produced by the Facility is not guaranteed by Nokomis and underperformance shall not constitute a breach or default under this agreement. In any month where the Facility generates fewer kilowatt hours of electrical energy than the Facility Capacity, thereby reducing the Allocation Amount, the underperformance will be represented in a proportional reduction of the Monthly Subscription Payment. The proportional reduction of the Monthly Subscription Payment shall be Subscriber’s sole remedy under this Agreement.

h. Commencing on the first day of the first calendar month following the Commercial Operation Date, Nokomis shall invoice Subscriber for the Monthly Subscription Payment. Subscriber agrees to make its Monthly Subscription Payments through an “automatic transfer of funds” prior to the invoice due date. Any amounts not paid prior to the invoice due date will accrue interest at a rate of eight percent (8%) or the maximum rate allowed by law, whichever is greater, per annum from the invoice due date until Nokomis receives payment.

i. Nokomis reserves the right to stagger the billing cycle of the Monthly Subscription Payment to match XCEL’s billing cycle for the Bill Credits associated with that Monthly Subscription Payment. For example, Nokomis may delay the Monthly Subscription Payment so that it falls in the same month as the Bill Credits purchased with that Monthly Subscription Payment appear on the Subscriber’s XCEL bill. In the event the billing cycle is staggered, Subscriber acknowledges that there may be reconciliation payments due to Nokomis at the end of the Term or if this Agreement is otherwise terminated during the Term.

j. If, as a result of an XCEL billing adjustment for any billing period, the quantity of energy allocated to Subscriber by Nokomis is changed, Subscriber and Nokomis agree to reconcile the change in good faith. Subscriber acknowledges that Nokomis does not guarantee the amount of electrical energy the Facility will produce, the amount of electrical energy produced in a given month corresponding to Subscriber’s Allocation, or the monetary value of the Bill Credits.

7. Subscriber Data; Records and Audits

a. Subscriber authorizes Nokomis to provide XCEL with Subscriber’s Allocation, Allocation Amount, Subscriber’s name, Subscriber’s XCEL Premise Number and Account Number(s), Subscriber’s bank account information used for “automatic transfer of funds” information, and service address(es) (collectively “Subscriber Data”).

b. Subscriber authorizes Nokomis or its designee to obtain its credit report now and in the future, answer questions others may ask regarding Subscriber’s credit and share Subscriber’s credit information with Nokomis’ financing partners. Subscriber hereby certifies that all information Subscriber provides to Nokomis in connection with checking Subscriber’s credit will be true and understands that this information must be updated upon request if Subscriber’s financial condition changes.

c. Upon request by Subscriber, Nokomis shall provide (i) evidence of the accuracy of its metering equipment for the Facility and/or (ii) such other information and records requested by Subscriber to enable Subscriber to verify the accuracy of the Bill Credits awarded by XCEL and any other calculation and/or measurements described in this Agreement.

d. Starting within twelve (12) months of the Commercial Operation Date, Nokomis shall provide to Subscriber signed and notarized public annual reports containing at a minimum: the energy produced by the Community Solar Garden; financial statements including a balance sheet, income statement, and sources and uses of funds statement; and, identification of the management and operatorship of the Community Solar Garden Operator.
8. **Publicity and Intellectual Property.**

   a. Subscriber hereby grants to Nokomis a limited, non-exclusive, royalty-free license to use Subscriber’s trademarks, logos and trade name (“Subscriber IP”) to promote Nokomis and this subscriber agreement. In addition, Nokomis may from time to time, at its sole option, identify Subscriber as a Nokomis solar garden subscriber in or on Nokomis’ website, sales and marketing materials, press releases, or any other marketing communications. Nokomis shall not use Subscriber IP without the prior written consent of Subscriber.

   b. Nokomis hereby grants to Subscriber a limited, non-exclusive, royalty-free license to use Nokomis’ trademarks, logos and trade name (“Nokomis IP”) in order to promote Subscriber and this subscriber agreement. In addition, Subscriber may from time to time, at its sole option, identify Nokomis as a Solar Garden or Clean Energy Partner in or on marketing materials, press releases, or any other marketing communications. Subscriber shall not use Nokomis IP without the prior written consent of Nokomis.

   c. Other than the licenses set forth in this Section, this Agreement does not give either party any license or ownership rights in the other party’s trade name, trademarks, confidential information, software, or other intellectual property rights.

9. **Taxes.**

   a. Subscriber shall be solely liable for sales, use, or similar taxes imposed by a governmental entity having jurisdiction over Subscriber and the Facility, where such taxes are attributable to the sale of Bill Credits allocated to the Subscriber.

   b. Subscriber shall have no interest in and have no entitlement to claim any REC, investment tax credit or other tax benefits related to ownership of the Facility.

10. **Representations, Warranties and Covenants**

   a. Each Party represents and warrants to the other Party:

      i. The Party is duly organized, validly existing, and in good standing in the jurisdiction of its organization and is qualified to do business in the State of Minnesota;

      ii. The Party has full legal capacity to enter into and perform this Agreement;

      iii. The execution of the Agreement has been duly authorized, and each person executing the Agreement on behalf of the Party has full authority to do so and to fully bind the Party; and

      iv. To the best of its knowledge, there is no litigation, action, proceeding or investigation pending before any court or other Governmental Authority by, against, affecting, or involving its ability to carry out the transactions contemplated herein.

      v. This Agreement constitutes a legally valid and binding obligation enforceable against such Party in accordance with its terms; and
vi. Each party is in good financial condition, there are no bankruptcy proceedings against it, no filings against it for involuntary bankruptcy, and it has no knowledge of any material legal and/or financial claims, issues, or proceedings against it that would have an adverse material effect on its financial condition.

b. Nokomis represents, warrants, and covenants to Subscriber:

   i. Nokomis has, or in the ordinary course will obtain, all licenses, permits and any other required documents to construct and operate the Facility;

   ii. Nokomis shall perform its obligations under the CSG Contract and otherwise comply with all provisions of the CSG Program and other applicable tariffs.

   iii. Nokomis has, or will obtain the necessary funds to construct, operate and maintain the Facility.

   iv. Except as may be required by law or regulation, or with Subscriber’s consent, Nokomis will not publicly disclose Subscriber’s Data, energy usage data, or Bill Credits.

c. Subscriber represents, warrants, and covenants to Nokomis:

   i. Except to the extent permitted by Exclusive Allocation, Subscriber agrees not to install or procure any other distributed generation resource(s) serving Subscriber’s premise during the term of this Agreement that would cause Subscriber to no longer be eligible to purchase Subscriber’s Allocation from the Facility.

   ii. Within thirty (30) days of request by Nokomis, which request shall be made not sooner than the date of commencement of construction of the Facility, Subscriber shall complete, execute, and deliver to Nokomis the Subscriber Agency Agreement in the form attached hereto as Exhibit C to the Garden Terms and Conditions. Upon execution, all of the information and statements of Subscriber provided therein shall be accurate.

   iii. Subscriber understands and agrees it will have no interest in or entitlement to (a) benefits or derivatives of “Unsubscribed Energy” or “RECs” associated with the Facility as each is defined in the CSG Contract; or (b) incentives under XCEL’s Solar Rewards program associated with the Facility.

   iv. Subscriber acknowledges and agrees that Nokomis does not guarantee production and that Subscriber has no defenses, set-offs, bases for withholding payments, counterclaims, or failure of performance claims against Nokomis.

   v. Subscriber understands and agrees that this Agreement does not afford Subscriber any stock, share, or ownership interest in Nokomis or the Facility, its assets, income, or profits nor is it a guarantee, warrant, or right to purchase the foregoing. Subscriber acknowledges that the neither this Agreement, Facility Capacity, Bill Credits, nor Subscriber’s Allocation, have been registered under any securities laws or regulations and Subscriber agrees not to assign, transfer, sell or otherwise dispose of the Subscriber’s Allocation and Bill Credits in such a manner that will violate any securities laws or regulations.

   vi. Subscriber acknowledges and agrees it will promptly notify Nokomis of any changes in Subscriber’s Data.
11. **Default.**

   a. Events of Default. The following shall each constitute an Event of Default by a Party:

      i. Subscriber fails to make any material payment due under this Agreement within thirty (30) days after delivery of notice from Nokomis that such payment is overdue.

      ii. Subscriber materially fails to perform or comply with any material representation, warranty, obligation or covenant set forth in this Agreement and such failure continues for a period of thirty (30) days after delivery of notice thereof from Nokomis.

      iii. Subscriber assigns, transfers, encumbers, or sells this Agreement or any part of Subscriber’s Allocation or Bill Credits in violation of this Agreement.

      iv. Subscriber makes an assignment for the benefit of creditors, admits in writing its insolvency, or is subject to a petition for dissolution or reorganization, voluntary or involuntary, under the U.S. Bankruptcy Code.

      v. Nokomis substantially abandons a Facility and such default continues for a period of thirty (30) days after delivery of notice from Subscriber, provided that if such default may not reasonably be cured within thirty (30) days, such cure period may be extended for a reasonable period of time not to exceed an additional sixty (60) days.

      vi. Nokomis is deemed to have committed fraud or gross negligence in the performance of its obligations under the Agreement.

   b. Production of fewer kilowatt hours of electrical energy than the Facility Capacity shall not constitute an Event of Default under this Agreement. The proportional reduction of the Monthly Subscription Payment shall be Subscriber’s sole remedy for underperformance under this Agreement.

   c. **Force Majeure**

If by reason of Force Majeure, Nokomis is unable to carry out, either in whole or in part, any of its obligations herein, such Nokomis shall not be deemed to be in default during the continuation of such inability, provided that within a reasonable time after the occurrence of the Force Majeure event, Nokomis gives Subscriber notice describing the particulars of the occurrence and the anticipated period of delay and uses reasonable efforts to remedy the cause(s) preventing it from carrying out its obligations. "Force Majeure” as used in this Agreement shall mean an event or circumstances beyond the reasonable control of Nokomis not resulting from the Nokomis’s negligence, including, but not limited to fire, acts of God, earthquake, flood or other casualty or accident; break down or failure of XCEL’s electric distribution system; serial equipment defect; strikes or labor disputes; war, civil strife or other violence; and any law, order, proclamation, regulation, ordinance, action, demand or requirement of any government agency or utility.

12. **Early Termination.**

   a. Upon the occurrence of an Event of Default, the non-defaulting party may terminate the Agreement ninety (90) days after providing notice of termination to the defaulting party, unless the default is cured within that ninety (90) day period.
b. If at any time Subscriber or any premise of Subscriber ceases to be an XCEL customer, Subscriber may terminate this Agreement (or only as applicable to that premise) upon the following terms and conditions:

   i. Subscriber provides one hundred eighty (180) days advanced notice to Nokomis;

   ii. Subscriber pays Nokomis all amounts due and owed to Nokomis after reconciliation of the Monthly Subscription Payment; and either:

   - Subscriber agrees to work with Nokomis to identify a Replacement Subscriber eligible to purchase Subscriber’s Allocation from the Facility, which has the same or better credit as Subscriber, and actually executes a Subscription Agreement to become a Subscriber of the Facility, or

   - Subscriber pays Nokomis a Transfer Fee of $500 and a subscriber acquisition fee of $0.003/kWh based on the amount of the Allocation Amount that has not been replaced or transferred at time of termination.

Subscriber agrees to use all reasonable efforts to assist Nokomis with the transfer to a new Subscriber, including but not limited to executing an assignment of Subscriber’s Allocation to Nokomis or a new Subscriber, and any other documentation associated with the termination.

Nokomis shall use all reasonable efforts to have Replacement Subscriber become a Subscriber of the Facility, but under no circumstances shall Nokomis be liable to Subscriber if no Subscription Agreement is executed between Nokomis and Replacement Subscriber. Subscriber agrees that the Termination Fee is a fair estimate of Nokomis’ administrative expenses associated with the termination and such fee may not be reduced by Nokomis or Subscriber’s mitigation. If Subscriber terminates this Agreement, Nokomis shall have no further liability to Subscriber and shall not be required to refund or otherwise compensate Subscriber pursuant to this Agreement.

c. If at any time Subscriber ceases to be eligible to purchase Subscriber’s Allocation from the Facility, this Agreement may be subject to termination by Nokomis.

d. This Agreement may be terminated upon the death of Subscriber, if Subscriber is a natural person and the sole XCEL account holder associated with the Bill Credits.

e. In the event of Subscriber’s breach, repudiation, or termination of this Agreement constituting an Event of Default or violation of Section 12(b) or (d) herein, Nokomis shall be entitled to recover from Subscriber (subject to Nokomis’ duty to mitigate damages): (i) the unpaid Monthly Subscription Payments due at the time of such breach, repudiation, or termination; and (ii) Nokomis’ damages resulting from Subscriber’s breach, repudiation, or termination, including estimated Monthly Subscription Payments over the remaining Term less compensation received by XCEL, if any, attributable to Subscriber’s Allocation. Any post-termination Monthly Subscription Payments that may qualify as damages under this section will be calculated based on the Schedule of Expected Deliveries of Bill Credits (Exhibit B) and the Bill Credit Rate applicable to each year of the remaining Term. The parties agree that the damages payable under this section do not constitute a penalty but are a reasonable estimate of Nokomis’ actual damages from Subscriber’s breach, repudiation, or termination of this Agreement.

13. Assignment; Transfer.
a. Nokomis Assignment

Nokomis may assign or transfer all or any portion of this Agreement to any affiliate, any financial institution, or any entity that has agreed in writing to recognize and not disturb Subscriber’s rights under this Agreement, including upon foreclosure or conveyance in lieu thereof. Nokomis may also assign or transfer all or any portion of this Agreement to another CSG Facility owned by Nokomis, an affiliate, or another owner/operator, so long as the CSG Facility is located in the same or adjacent county to Subscriber Site. Upon such assignment or transfer Nokomis shall provide updated disclosure information, as required by this Agreement or the CSG Program. Nokomis may assign or transfer this Agreement without providing Subscriber with prior notice and without obtaining Subscriber’s prior consent. Upon any such transfer or assignment, Nokomis will notify Subscriber and Nokomis shall be released from all future obligations under this Agreement.

b. Subscriber Transfer

Subscriber may transfer this Agreement to any person or entity only upon the following terms and conditions:

i. Subscriber provides ninety (90) days advanced written notice to Nokomis;

ii. The person or entity Replacement Subscriber is eligible to purchase Subscriber’s Allocation from the Facility, has the same or better credit as Subscriber, and actually executes a Subscription Agreement to become a Subscriber of the Facility;

iii. Subscriber pays Nokomis all amounts due and owed to Nokomis after reconciliation of the Monthly Subscription Payment;

iv. Subscriber pays Nokomis a Transfer Fee of five hundred dollars ($500);

and

v. Subscriber obtains prior approval from Nokomis, which Nokomis may provide or withhold in its absolute discretion.

Nokomis shall use all reasonable efforts to have Replacement Subscriber become a Subscriber of the Facility, but under no circumstances shall Nokomis be liable to Subscriber if no Subscription Agreement is executed between Nokomis and Replacement Subscriber. Subscriber agrees that the Transfer Fee is a fair estimate of Nokomis’ administrative expenses associated with the termination and such fee may not be reduced by Nokomis or Subscriber’s mitigation. If Subscriber transfers this Agreement, Nokomis shall have no further liability to Subscriber and shall not be required to refund or otherwise compensate Subscriber pursuant to this Agreement.

c. Subscriber Address Change

Subscriber may change the Subscriber Site without any prior approval from Nokomis so long as Subscriber provides ninety (90) days prior notice to Nokomis, pays a Five Hundred Dollar ($500.00) Transfer Fee and Subscriber continues to be eligible to purchase Subscriber’s Allocation from the Facility. If Subscriber ceases to be eligible to purchase Subscriber’s Allocation from the Facility, but remains an XCEL customer, Nokomis has the right but not the obligation to transfer Subscriber to a different Nokomis CSG Facility. If Subscriber cannot fulfill all of Subscriber’s Allocation, Subscriber is subject to the terms of Early Termination as defined in this Agreement for the portion of Subscriber’s Allocation that cannot be fulfilled.
14. **Dispute Resolution.**

a. In the event of any controversy, dispute or claim arising out of or relating to this Agreement, the complaining Party shall provide written notice to the other Party, and the Parties shall attempt in good faith to resolve the dispute amicably.

b. Any controversy or claim arising out of or relating to this contract, or the breach thereof, that cannot be resolved within thirty (30) days after written notice of the dispute to the other Party shall be settled by arbitration administered by the American Arbitration Association in accordance with its Consumer Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Such arbitration shall be held in Minneapolis, Minnesota before one arbitrator with experience in electrical distribution pricing.

c. Continuation of Performance. During the pendency of any dispute hereunder, the Parties shall continue to perform their respective obligations under this Agreement.

d. Exclusive Remedy. The parties acknowledge and agree that arbitration is the exclusive remedy provided herein and that if either Party files a claim or complaint or cause of action in any state or federal court or other tribunal without first seeking arbitration pursuant to the provision above, the other party shall be entitled to recover attorneys fees and costs from the filing party.

15. **Limitation of Liability.**

a. No Special Damages

NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INDIRECT OR PUNITIVE DAMAGES OF ANY CHARACTER, RESULTING FROM, ARISING OUT OF, IN CONNECTION WITH OR IN ANY WAY INCIDENT TO ANY ACT OR OMISSION OF A PARTY RELATED TO THE PROVISIONS OF THIS AGREEMENT, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY AT LAW OR EQUITY, OTHER THAN ANY CONSEQUENTIAL DAMAGES FOR EACH EITHER PARTY INDEMNIFIES THE OTHER PURSUANT TO SECTION 18.

b. No Warranty

EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NOKOMIS MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, REGARDING THE FACILITY OR ITS OBLIGATIONS HEREUNDER. NOKOMIS DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, NOKOMIS DOES NOT WARRANT OR GUARANTEE THE AMOUNT OF ELECTRICITY, FACILITY CAPACITY, SUBSCRIBER ALLOCATION, ALLOCATION AMOUNT, KILOWATT ALLOCATION, OR BILL CREDITS. THE AMOUNTS SET FORTH ON EXHIBIT B ARE FOR ILLUSTRATION PURPOSES ONLY, AND SUBSCRIBER ACKNOWLEDGES THE BILL CREDITS MAY BE GREATER OR LESS THAN THE ESTIMATES PROVIDED.

16. **Lender And Tax Equity Investor Accommodations.**

a. Subscriber acknowledges that Nokomis may finance the construction, development, and installation of the Facility through one or more financial partners or financial institutions,
or their assigns (collectively hereafter “Lender/Investor”) and that Nokomis may sell or assign the Facility and/or may secure Nokomis’ obligations thereunder by, among other encumbrances, a pledge or collateral assignment of this Agreement and a first priority security interest in the Facility.

b. Subscriber acknowledges and agrees that Lender/Investor approval and consent may be required for the following:

i. Any modification in the operation or maintenance of the Facility;

ii. Any modification to the information disclosures;

iii. Any modification to the CSG Contract;

iv. Any additional Subscriber representations, warranties, and covenants; or

v. Any amendment to this Agreement, including but not limited to any calculation of the Monthly Subscription Payments, Subscriber Eligibility Criteria, and Subscriber’s ability to terminate this Agreement.

c. Subscriber acknowledges and agrees that under no circumstances shall:

i. Lender/Investor be liable to Subscriber for any act or omission of Nokomis;

ii. Lender/Investor be subject to any defenses or offsets that Subscriber may have against Nokomis under this Agreement; or

iii. Lender/Investor be liable with respect to any breach of any representation or warranty made by Nokomis to Subscriber under this Agreement.

17. Lender’s and Tax Equity Investor’s Default Rights.

If Nokomis defaults under Nokomis’s financing documents with its Lender or Investor, Lender or Investor shall be entitled to exercise any of Nokomis’s rights and obligations under this Agreement. Subscriber acknowledges and agrees that Lender’s security interest in the Facility may be a first priority security interest in the Facility. Lender/Investor may also be entitled to exercise all rights and remedies of secured or preferred parties generally with respect to this Agreement and the Facility, including, but not limited to the following:

a. Lender/Investor may have the right, but not the obligation, to pay all sums due from Nokomis, perform any other act required of Nokomis, and to cure any default by Nokomis in which case this Agreement will continue in full force and effect.

b. Lender/Investor may have the option to sell its interest in the Facility. If Lender/Investor exercises that remedy, it shall not constitute a default under this Agreement, and such sale shall not require Subscriber’s prior consent.

c. Upon the reasonable request of Lender/Investor and upon Lender/Investor providing Subscriber with all required disclosure information, Subscriber agrees to enter into a new Agreement with Lender/Investor or their assigns under substantially the same terms as this Agreement within ninety (90) days of the termination of this Agreement.
d. Upon the reasonable request of Nokomis or Lender/Investor, Subscriber agrees to execute and deliver to Nokomis or Lender/Investor any document, instrument, or statement in such form as Nokomis or Lender/Investor may require by which Subscriber acknowledges and confirms that the legal and beneficial ownership of the Facility remains in Nokomis or its affiliate or as is otherwise reasonably requested by Lender/Investor in order to create, perfect, continue, or terminate the security or equitable interest in the Facility in favor of Lender/Investor.

18. Mutual Indemnification.

Nokomis will defend, hold harmless, and indemnify Subscriber, its officers, directors, employees, and agents from any claims, liabilities, or expenses (including reasonable attorney’s fees) arising from or relating to the Nokomis’s breaches of or willful or negligent acts or omissions in connection with this Agreement. Subscriber will defend, hold harmless, and indemnify Nokomis, its officers, directors, employees, and agents from any claims, liabilities, or expenses (including reasonable attorney’s fees) arising from or relating to Subscriber’s breaches of or willful or negligent acts or omissions in connection with this Agreement. The provision of this section shall survive the termination of the Agreement with respect to any claim, action, or proceeding that relates to acts or omissions during the term of this Agreement.

19. Miscellaneous.

a. XCEL Disputes

Nokomis shall be solely responsible for resolving any dispute with XCEL regarding the production of electricity by the Facility. Subscriber shall be solely responsible for resolving any dispute with XCEL regarding the calculation of the Bill Credit Rate.

b. Notices

i. Any notice provided pursuant to this Agreement shall be in writing. All notices, demands, or requests shall be deemed given when emailed, or mailed, postage prepaid, registered or certified mail, return receipt requested.

ii. Subscriber shall promptly notify Nokomis of any changes in Subscriber Data.

iii. All notices and communications to Nokomis shall be sent to the following address:

   Attn: Subscription Management
   Nokomis Energy
   2639 Nicollet Avenue, Suite 200
   Minneapolis, MN 55408
   subscription@nokomisenergy.com

c. Governing Law. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Minnesota without reference to any choice of law principles.

d. Insurance. With respect to the services provided pursuant to this Agreement, Nokomis shall at all times during the term of this Agreement and beyond such term when so required have
and keep in force insurance with limits of liability as required under the CSG Program. Operations period insurance coverage is anticipated to include workman’s compensation insurance, automobile liability, environmental liability insurance and general liability insurance with industry standard liability limits and deductibles. Specific insurance information can be provided upon request.

e. Compliance with Law. In performing its obligations under this Agreement, each Party will comply with all statutes, orders, by-laws, regulations, or other laws of any governmental agency. Nokomis shall obtain and maintain any and all permits, licenses, bonds, certificates and other similar approvals required in connection with this Agreement.

f. Entire Agreement. This Agreement, and all documents referenced herein, contain the entire agreement between Parties with respect to the subject matter hereof, and supersede all other understandings or agreements, both written and oral, between the Parties relating to the subject matter hereof.

g. Amendments; Binding Effect. This Agreement may not be amended or altered unless in writing and signed by each Party, successor or assignee. This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and assigns.

h. Section Headings. Section headings are for reference purposes only and are not intended to create substantive rights or obligations.

i. Severability. In the event that any provision of this Agreement is determined to be invalid by a court or arbitrator of competent jurisdiction, such determination shall in no way affect the validity or enforceability of any other provision herein.

j. Waiver. No failure of either party to give notice of, or seek a remedy for, any violation of this Agreement, or to insist on strict performance hereunder shall reduce, impair, or affect such party’s right to later seek such remedy, or insist on such performance with respect to the same or any other violation or failure, regardless of such party’s knowledge or lack of knowledge thereof.

k. No Joint Venture. Nothing in this Agreement will be constructed to place the parties in the relationship of partners, joint-ventures, principal and agent, or any other legal or equitable relationship in which any one of the parties may (except as specifically provided in this Agreement) be liable for the acts or omissions of the other party and no party has the authority to bind or obligate the other party in any matter whatsoever. Nokomis and Subscriber acknowledge and agree that each party is engaged in a separate and independent business and neither shall state, represent, or imply any interest in or control over the business of the other.

l. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

m. Further Assurances. Each Party shall execute, acknowledge and deliver such documents and assurances, reasonably requested by the other Party for the purpose of effecting or confirming any of the transactions contemplated by this Agreement.

n. No Third-Party Beneficiaries. This Agreement is intended solely for the benefit of the Parties hereto. Except as expressly set forth in this Agreement, nothing in this Agreement shall be construed to create any duty to or standard of care with reference to, or any liability to, or any benefit for, any person not a party to this Agreement.
o. Confidentiality and Data Privacy. Nokomis will not disclose any Subscriber Data to any third party without the express written consent of Subscriber, except disclosures to XCEL, as required pursuant to the CSG Program, or unless required by law. All Subscriber Data will be kept by Nokomis pursuant to Nokomis’ Privacy Policy a copy of which is attached as Exhibit D to the Garden Terms and Conditions. Nokomis reserves the right to update and revise its Privacy Policy, as it deems necessary, without Subscriber’s prior consent. The parties acknowledge and agree this Agreement is governed by the Minnesota Government Data Practices Act (Minn. Stat. Ch. 13). Under no circumstances shall Subscriber be required to act or not act in a manner that it reasonably believes, after consultation with counsel may be in violation of such act.

[SIGNATURE PAGE FOLLOWS]
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF SOUTH ST. PAUL

By: ________________________________

Name: ______________________________

Title: ______________________________

NOKOMIS ENERGY LLC

By: ________________________________

Name: ______________________________

Title: ______________________________
COMMUNITY SOLAR GARDEN SUBSCRIPTION AGREEMENT

[GARDEN NAME] TERMS AND CONDITIONS

This Agreement (“Garden Terms and Conditions”) is entered into by and between Subscriber and [Garden Name]. The Garden Terms and Conditions form one Community Solar Garden Subscription Agreement with the General Terms and Conditions, and explicitly incorporate all terms and conditions set forth therein. The Garden Terms and Conditions provide the terms of the Agreement unique to each Community Solar Garden facility and the Subscriber first named above.

Facility Location (County): ________________________________

Premises Owned or Controlled By: [GARDEN NAME] (“Garden”)

Xcel SRC Garden #: ________________________________

Facility Capacity: 1,000 kWAC / _____ kWDC

Subscriber Premise: ________________________________

Subscriber Xcel Account No.: ________________________________

Subscriber Premise No.: ________________________________

Subscriber’s Allocation: _____________ % of Garden

Allocation Amount: _____________ kWh = ____kWDC

Solar Panel (Brand, Power) To be inserted prior to construction (must meet all applicable codes & standards)

EXHIBITS:

A. Contract Between XCEL and [GARDEN NAME]
B. Schedule of Expected Deliveries of Bill Credits
C. XCEL Subscriber Agency Agreement
D. Nokomis Privacy Policy
E. Conceptual Garden Layout
F. Solar Panel Warranty
G. Long Term Garden Operations & Maintenance Plan
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CITY OF SOUTH ST. PAUL

By: ________________________________

Name: ______________________________

Title: ______________________________

[GARDEN NAME]

By: ________________________________

Name: ______________________________

Title: ______________________________


GARDEN TERMS AND CONDITIONS

EXHIBIT A

CSG Contract Between XCEL and [GARDEN NAME]

(To be provided prior to Garden’s Commercial Operation Date)

CLICK HERE TO LINK TO STANDARD CONTRACT ON XCEL’S WEBSITE
GARDEN TERMS AND CONDITIONS

EXHIBIT B

Schedule of Expected Deliveries of Bill Credits

[Insert Spreadsheet]

1 For the purposes of the table Term year 1 begins on the Commercial Operation Date.
2 Xcel Bill Credit Value is based on the project receiving Xcel’s 2017 Value of Solar Tariff rate.
3 Energy values are estimates of (i) the kWhs of Delivered Energy expected to be generated annually by the System and ( ii) the portion of the Delivered Energy generated annually that is to be allocated to Subscriber pursuant to Subscriber’s Allocated Percentage, which amount is derived by multiplying the estimated Delivered Energy by the Subscriber’s Allocated Percentage in each year. If necessary, the table will be updated upon final design of the System; provided, however, any such updated values are also estimates.
4 Operators used PVSYST to develop the above production projections.
GARDEN TERMS AND CONDITIONS

EXHIBIT C

XCEL Subscriber Agency Agreement

CLICK HERE TO LINK TO STANDARD CONTRACT ON XCEL’S WEBSITE
Nokomis Privacy Policy

Nokomis is committed to preserving your privacy and data. This Privacy Policy explains the types of data and information Nokomis collects and how it is protected and used. By using our website or otherwise providing us your information, you consent to this Privacy Policy. Nokomis may amend this Privacy Policy from time to time. Your continued use of our website will be deemed to be consent to any amendments. If you have any questions regarding this Privacy Policy you may contact us using the information below.

WHAT INFORMATION DO WE COLLECT?

We collect information from you when you register on our site, fill out a form, sign up to receive our communications, voluntarily provide us with contact information, or subscribe to a solar garden. We also collect information that is sent to us automatically by your web browser. This information typically includes your IP address, the identity of your Internet service provider, the name and version of your operating system, the name and version of your browser, the date and time of your visit, and the pages you visit. Please check your browser if you want to learn what information your browser sends or how to change your settings.

Our website uses cookies to automatically help provide better services. They allow us to recognize your browser and capture and remember certain information. They are also used to help us understand your preferences based on previous or current site activity, which enables us to provide you with improved services. We also use cookies to help us compile aggregate data about site traffic and site interaction so that we can offer better site experiences and tools to our subscribers in the future. You can choose to have your computer warn you each time a cookie is being sent, or you can choose to turn off all cookies. You do this through your browser settings.

HOW DO WE USE YOUR INFORMATION?

Any of the information we collect from you may be used to personalize your experience, to improve our website, to improve customer service, to process transactions, to track visitors of our website, and to facilitate your subscription to a solar garden. We may also use the contact information you have provided us to respond to your requests, or otherwise communicate with you about our services, information pertaining to your subscription, occasional company news, updates, related product or service information, etc.

DO WE DISCLOSE ANY INFORMATION TO THIRD PARTIES?

We do not sell, trade, or otherwise transfer to outside parties your personally identifiable information. This does not include trusted third parties who assist us in operating our website, conducting our business, or servicing you, so long as those parties agreed to keep this information confidential. We may also release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect ours or others rights, property, or safety. Your personal information will not be provided to other parties for marketing, advertising, or other uses. However, non-personally identifiable visitor information may be provided to other parties for marketing, advertising, or other uses.

HOW DO WE PROTECT YOUR INFORMATION?

We maintain reasonable administrative, physical, and technological measures to protect the confidentiality and security of your personal information. We employ industry-standard Secure Socket Layer (SSL) technology in an effort to protect data transmissions. However, due to the inherent open nature of the Internet we cannot guarantee that communications between you and any Web Site or Service, or information stored on any Web Site or our servers, will be free from unauthorized access by third parties such as hackers.

CONSENT TO COMMUNICATIONS

By providing your contact information to us, you consent to receive email messages, phone calls, and mail (sometimes promotional in nature) from Nokomis and our affiliates and community partners at the contact information you provide. You do not need to consent to these communications in order to subscribe to one of our community solar gardens.

If at anytime you would like to unsubscribe from receiving future emails, we include detailed unsubscribe instructions at the bottom of each email. We may still contact you about your transactions with us, such as your community solar subscription.

EXTERNAL LINKS

Our website, www.nokomis.partners, as well as any website under our control, includes links to external websites. These links do not fall under the www.nokomis.partners domain, and Nokomis is not responsible for the privacy practices or the content of external websites. Your use of any linked website is solely at your own risk.
CONTACT US
If you have any questions about this Privacy Policy, please contact us by email at: connect@nokomis.partners or by mail at: 818 W 46th Street, Suite 201, Minneapolis, MN 55419.

GARDEN TERMS AND CONDITIONS

EXHIBIT E

Conceptual Layout

[Insert]
GARDEN TERMS AND CONDITIONS

EXHIBIT F

Solar Panel Warranty

(To be provided prior to commencing construction)
GARDEN TERMS AND CONDITIONS

EXHIBIT G

Long Term Maintenance Plan

(To be provided by Operator prior to Commercial Operation Date)
The Bill Credit Rate that applies is based on either the:

1. **Applicable Retail Rate**
   For applications that on or before December 31, 2016, met the requirements in tariff Section 9, Sheet 67, step (i) (“Deemed Complete” or the “Initial Application Completeness”); or otherwise qualify as provided for in an authorized amendment to the Standard Contract for Solar*Rewards Community.

2. **Value of Solar (VOS)**
   For applications that were Deemed Complete on or after January 1, 2017, and that do not qualify for the applicable retail rate.

**Applicable Retail Rate**
The Bill Credit Rate, applicable to the subscriber, is dependent on the customer class under which the subscriber receives service and the Bill Credit Type selected by the garden operator in the tariffed Standard Contract for Solar*Rewards Community:

- The Standard Bill Credit is the applicable retail rate in effect at the time of energy generation.
- The Enhanced Bill Credit is the sum of the applicable Standard Bill Credit and the Commission-approved REC pricing. A Solar*Rewards Community garden electing to sell its RECs (via the Enhanced Bill Credit) to the Company for subscribed energy shall be at the Commission approved REC price in place on the date the garden’s application is considered by the Company to be complete.
- The REC price pertaining to an individual garden shall remain fixed for the entire 25-year contract period. Subsequent Commission approved REC prices shall only apply to new garden applications.

<table>
<thead>
<tr>
<th>Customer class</th>
<th>Bill Credit Type</th>
<th>Bill Credit Rate per kWh (AC) for energy delivered to company</th>
</tr>
</thead>
<tbody>
<tr>
<td>RESIDENTIAL SERVICE</td>
<td>Standard</td>
<td>$0.13540</td>
</tr>
<tr>
<td></td>
<td>Enhanced – Solar Gardens &gt; 250 KW (AC)</td>
<td>$0.15540</td>
</tr>
<tr>
<td></td>
<td>Enhanced – Solar Gardens ≤ 250 KW (AC)</td>
<td>$0.16540</td>
</tr>
<tr>
<td>SMALL GENERAL SERVICE</td>
<td>Standard</td>
<td>$0.12634</td>
</tr>
<tr>
<td></td>
<td>Enhanced – Solar Gardens &gt; 250 KW (AC)</td>
<td>$0.14634</td>
</tr>
<tr>
<td></td>
<td>Enhanced – Solar Gardens ≤ 250 KW (AC)</td>
<td>$0.15634</td>
</tr>
<tr>
<td>GENERAL SERVICE</td>
<td>Standard</td>
<td>$0.10550</td>
</tr>
<tr>
<td></td>
<td>Enhanced – Solar Gardens &gt; 250 KW (AC)</td>
<td>$0.12550</td>
</tr>
<tr>
<td></td>
<td>Enhanced – Solar Gardens ≤ 250 KW (AC)</td>
<td>$0.13550</td>
</tr>
</tbody>
</table>
**Value of Solar (VOS) Bill Credit Rate**

The specific VOS Bill Credit Rate to be applied will depend on several factors:

- Each application Deemed Complete in a given calendar year will have a VOS Bill Credit Rate table applicable to the vintage of the VOS based on the calendar year it was Deemed Complete (“VOS Vintage Year”).

- Each VOS Vintage Year table of Bill Credit Rates will have separate rates for each of the 25 years of production from the garden:

  - The rate for Year 1 for a given VOS Vintage Year will apply for all Bill Credits associated with production in the first calendar month associated with the Date of Commercial Operation and all subsequent calendar months in the same calendar year.

  - The VOS Bill Credit Rate for Year 2 for a given VOS Vintage Year will apply for all calendar months in the following calendar year.

  - In the same way, the rates for Year 3 through 25 shall apply in sequential order for each of the following calendar years.

  - Where the Date of Commercial Operation is not January 1, the Year 25 rate shall also apply to the final calendar year up to the end of the Term of the Contract.

<table>
<thead>
<tr>
<th>Year number</th>
<th>2017 VOS Vintage Year Bill Credit Rate ($/kWh)</th>
<th>2018 VOS Vintage Year Bill Credit Rate ($/kWh)</th>
<th>2019 VOS Vintage Year Bill Credit Rate ($/kWh)</th>
<th>2020 VOS Vintage Year Bill Credit Rate ($/kWh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>YEAR 1</td>
<td>$0.1033</td>
<td>$0.0976</td>
<td>$0.0904</td>
<td>$0.0940</td>
</tr>
<tr>
<td>YEAR 2</td>
<td>$0.1057</td>
<td>$0.0998</td>
<td>$0.0925</td>
<td>$0.0961</td>
</tr>
<tr>
<td>YEAR 3</td>
<td>$0.1081</td>
<td>$0.1021</td>
<td>$0.0945</td>
<td>$0.0983</td>
</tr>
<tr>
<td>YEAR 4</td>
<td>$0.1106</td>
<td>$0.1044</td>
<td>$0.0967</td>
<td>$0.1005</td>
</tr>
<tr>
<td>YEAR 5</td>
<td>$0.1132</td>
<td>$0.1067</td>
<td>$0.0988</td>
<td>$0.1027</td>
</tr>
<tr>
<td>YEAR 6</td>
<td>$0.1158</td>
<td>$0.1092</td>
<td>$0.1011</td>
<td>$0.1050</td>
</tr>
<tr>
<td>YEAR 7</td>
<td>$0.1185</td>
<td>$0.1117</td>
<td>$0.1033</td>
<td>$0.1073</td>
</tr>
<tr>
<td>YEAR 8</td>
<td>$0.1212</td>
<td>$0.1142</td>
<td>$0.1057</td>
<td>$0.1097</td>
</tr>
<tr>
<td>YEAR 9</td>
<td>$0.1241</td>
<td>$0.1168</td>
<td>$0.1080</td>
<td>$0.1122</td>
</tr>
<tr>
<td>YEAR 10</td>
<td>$0.1269</td>
<td>$0.1194</td>
<td>$0.1105</td>
<td>$0.1147</td>
</tr>
<tr>
<td>YEAR 11</td>
<td>$0.1299</td>
<td>$0.1221</td>
<td>$0.1130</td>
<td>$0.1172</td>
</tr>
<tr>
<td>YEAR 12</td>
<td>$0.1329</td>
<td>$0.1249</td>
<td>$0.1155</td>
<td>$0.1198</td>
</tr>
<tr>
<td>YEAR 13</td>
<td>$0.1360</td>
<td>$0.1277</td>
<td>$0.1181</td>
<td>$0.1225</td>
</tr>
</tbody>
</table>
Community Solar Subscription Proposal

Nokomis Energy is pleased to offer you the opportunity to subscribe to its community solar gardens. The subscription is based on delivering a fixed savings rate of $0.01 off your Xcel Energy bill for every kWh your subscription produces. This simple and certain savings-only-contract means you only pay for what you save regardless of what happens to future electricity prices.

City of South St. Paul – Here are Your Savings

Now that your eligibility is determined, and your usage information is in hand we have sized your subscription. These are the highlights of the proposal:

1¢ per kWh – Savings Rate $25,200 – Estimated Year 1 Savings

25 years – Term length $592,200 – Estimated Lifetime Savings

<table>
<thead>
<tr>
<th>Premise Name(s)</th>
<th>Subscription Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of South St. Paul Facilities</td>
<td>2,520,000 kWh</td>
</tr>
</tbody>
</table>


Community solar offers you one of the only ways to reduce your electricity costs without reducing your consumption, all while contributing to the development of local energy infrastructure.

- No Changes to Your Facilities
- No Upfront Costs
- Savings Only Contract

About Nokomis Energy

Nokomis Energy is a Minnesota based energy developer whose mission is to accelerate clean, local energy deployment through equitable partnerships. Our approach is predicated on creating value for all stakeholders involved in energy development. Through a combination of development and consulting services we use distributed energy to improve grid reliability and provide value to ratepayers. Our commitment to you is as a partner from day one.
Quote Details - Your 25 Year Outlook

Your fixed savings rate is based on the delta between your Xcel Bill Credit Value and Nokomis Energy’s Subscription Rate, per kilowatt-hour generated by your portion of the community solar garden. Below, shows your Value of Solar bill credit rate and the community garden subscription rate. Also, the estimated energy that will be generated and your savings tied to it by year for 25 years. With your fixed savings rate, you only pay for what you save.

<table>
<thead>
<tr>
<th>Yr</th>
<th>Value of Solar Bill Credit Rate ($/kWh)</th>
<th>Nokomis Subscription Rate ($/kWh)</th>
<th>Fixed Savings rate ($/kWh)</th>
<th>Estimated Solar Energy Generated (kWh)</th>
<th>Estimated Savings Generated ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0.0940</td>
<td>0.0840</td>
<td>0.01</td>
<td>2,520,000</td>
<td>$25,200</td>
</tr>
<tr>
<td>2</td>
<td>0.0961</td>
<td>0.0861</td>
<td>0.01</td>
<td>2,507,400</td>
<td>$25,074</td>
</tr>
<tr>
<td>3</td>
<td>0.0982</td>
<td>0.0882</td>
<td>0.01</td>
<td>2,494,800</td>
<td>$24,948</td>
</tr>
<tr>
<td>4</td>
<td>0.1004</td>
<td>0.0904</td>
<td>0.01</td>
<td>2,482,200</td>
<td>$24,822</td>
</tr>
<tr>
<td>5</td>
<td>0.1027</td>
<td>0.0927</td>
<td>0.01</td>
<td>2,469,600</td>
<td>$24,696</td>
</tr>
<tr>
<td>6</td>
<td>0.1050</td>
<td>0.0950</td>
<td>0.01</td>
<td>2,457,000</td>
<td>$24,570</td>
</tr>
<tr>
<td>7</td>
<td>0.1073</td>
<td>0.0973</td>
<td>0.01</td>
<td>2,444,400</td>
<td>$24,444</td>
</tr>
<tr>
<td>8</td>
<td>0.1097</td>
<td>0.0997</td>
<td>0.01</td>
<td>2,431,800</td>
<td>$24,318</td>
</tr>
<tr>
<td>9</td>
<td>0.1121</td>
<td>0.1021</td>
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<td>2,419,200</td>
<td>$24,192</td>
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<td>10</td>
<td>0.1146</td>
<td>0.1046</td>
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<td>$24,066</td>
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<tr>
<td>11</td>
<td>0.1172</td>
<td>0.1072</td>
<td>0.01</td>
<td>2,394,000</td>
<td>$23,940</td>
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<tr>
<td>12</td>
<td>0.1198</td>
<td>0.1098</td>
<td>0.01</td>
<td>2,381,400</td>
<td>$23,814</td>
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<tr>
<td>13</td>
<td>0.1225</td>
<td>0.1125</td>
<td>0.01</td>
<td>2,368,800</td>
<td>$23,688</td>
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<tr>
<td>14</td>
<td>0.1252</td>
<td>0.1152</td>
<td>0.01</td>
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<td>$23,562</td>
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<td>0.01</td>
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<td>$23,436</td>
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<td>0.1309</td>
<td>0.1209</td>
<td>0.01</td>
<td>2,331,000</td>
<td>$23,310</td>
</tr>
<tr>
<td>17</td>
<td>0.1338</td>
<td>0.1238</td>
<td>0.01</td>
<td>2,318,400</td>
<td>$23,184</td>
</tr>
<tr>
<td>18</td>
<td>0.1368</td>
<td>0.1268</td>
<td>0.01</td>
<td>2,305,800</td>
<td>$23,058</td>
</tr>
<tr>
<td>19</td>
<td>0.1398</td>
<td>0.1298</td>
<td>0.01</td>
<td>2,293,200</td>
<td>$22,932</td>
</tr>
<tr>
<td>20</td>
<td>0.1429</td>
<td>0.1329</td>
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<td>2,280,600</td>
<td>$22,806</td>
</tr>
<tr>
<td>21</td>
<td>0.1461</td>
<td>0.1361</td>
<td>0.01</td>
<td>2,268,000</td>
<td>$22,680</td>
</tr>
<tr>
<td>22</td>
<td>0.1494</td>
<td>0.1394</td>
<td>0.01</td>
<td>2,255,400</td>
<td>$22,554</td>
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<td>23</td>
<td>0.1527</td>
<td>0.1427</td>
<td>0.01</td>
<td>2,242,800</td>
<td>$22,428</td>
</tr>
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<td>24</td>
<td>0.1561</td>
<td>0.1461</td>
<td>0.01</td>
<td>2,230,200</td>
<td>$22,302</td>
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<td>25</td>
<td>0.1596</td>
<td>0.1496</td>
<td>0.01</td>
<td>2,217,600</td>
<td>$22,176</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>0.01</td>
<td>59,220,000</td>
<td><strong>$592,200</strong></td>
</tr>
</tbody>
</table>
Assumptions

Please consider the following information when considering this proposal.

1. Proposal Based on the following Xcel electricity usage information provided by the customer or estimation by Nokomis Partners.

<table>
<thead>
<tr>
<th>Building</th>
<th>Xcel Account #</th>
<th>Premise #</th>
<th>Annual Usage</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of South St Paul Facilities</td>
<td>-</td>
<td>-</td>
<td>2,520,000 kWh</td>
</tr>
</tbody>
</table>

2. Savings estimate is based on the number of kilowatt hours the solar garden is projected to produce. Modeling is performed using PVSYST and a local weather file.
3. System performance is expected to degrade at 0.5% annually based on the solar module's warranted degradation.
4. Savings are realized through a combination of bill credits via your Xcel electricity bill and subscription payments made to Nokomis.
5. Subscription does not include rights to renewable energy certificates.
6. This proposal is based on projects receiving a Value of Solar Rate tariff.
7. Final subscription size is based on annual usage at time of initial garden operation, garden availability and location.
Our Offer: A Fixed Savings Rate

**How it Works:** Nokomis builds Solar Gardens as a part of Xcel Energy’s Solar*Rewards Community Program and connects them to Xcel’s distribution grid. Xcel Energy provides Nokomis Bill Credits for the energy produced by the Solar Garden. Nokomis sells these Bill Credits to subscribers at a defined Subscription Rate. These Bill Credits reduce a subscriber’s Xcel Energy bills.

**How We Lock in Your Savings Rate:** A Fixed Savings Rate means your Subscription Rate is always lower than the value of the Bill Credits you receive. The value of the Bill Credits is based on a contracted 25-year schedule known as the Value of Solar (VoS). By offering a Subscription Rate that is always a fixed amount below the Bill Credit Value, subscribers can lock into a Fixed Savings Rate.

Bill Credit Value – Subscription Rate = Fixed Savings Rate

Subscription Process

1. **Preliminary Proposal**
   Once we gather your Xcel Energy Usage data, we prepare a proposal for you based on the information you have provided. The major terms of the proposal are:
   a) Savings Rate – the per bill credit savings your subscription will generate
   b) Size of subscription – the size of the subscription you are eligible for
   c) Estimated solar performance – how many bill credits we expect the subscription to generate
   d) Term length – The length of the contract
   e) Total estimated savings – The total savings we estimate you will receive

2. **General Conditions – To be signed at initial contracting.**
   These are all the major terms that govern your subscription and specify the desired amount of electricity you wish to subscribe. At this time, we will also:
   a) Have you sign an Xcel’s Subscriber Agency Agreement which grants Nokomis and Xcel approval to work together to subscribe your premises to a community solar garden.
   b) Confirm your credit via a rating agency if available OR based on your last 3 years financials.

   We then populate the contracts and issue for final review and signing.

3. **Garden Conditions – To be signed upon construction of the solar garden.**
   This section outlines the specifics of the solar garden you will be subscribing to. This is where we allocate, at a minimum, the usage from the exclusivity section of the General Conditions.

4. **Bill Credit Delivery**
   Once the gardens are turned on, you will begin seeing bill credits delivered to your Xcel bill. These savings are what your subscription payments are based on. You only pay when you save.
Additional Information

Our Partnership with Xcel Energy
Nokomis builds Solar Gardens as a part of Xcel Energy’s Solar*Rewards Community Program and connects them to Xcel’s distribution grid. Xcel Energy provides Nokomis Bill Credits for the energy produced by the Solar Garden. Nokomis sells these Bill Credits to subscribers at a defined Subscription Rate. These Bill Credits reduce a subscriber’s Xcel Energy bills.

Contract Term Length
The subscription contract is for 25 years. The term length is designed to deliver you long term energy savings and decrease your exposure to utility rate changes. Regardless of whether rates go up or down, your savings are based purely on how well the garden performs.

Contract Early Termination Provisions
Our contracts are structured to ensure you always save. Regardless, you can exit your subscription in certain events.

- Commercial operation date not achieved – The solar garden does not achieve commercial operation by the agreed upon date
- Subscriber ceases to be an Xcel Customer – Subscriber moves the premises out of Xcel Territory, Subscriber moves the premises outside of the solar garden’s eligible counties, subscriber shuts down the premises.
- Transfer/Assignment to another subscriber – Subscriber wants to exit contract or transfer savings to another entity

Monthly Billing

- Bill Credits Generated x Bill Credit Rate = Total Credit applied to your Xcel bill
- Bill Credits Generated x Subscription Rate = Total amount you owe Nokomis (Billed separately)
- What if the value of the bill credits exceeds your total electricity bill? Not to worry. Xcel pays out excess bill credits annually.

Program Rules / Eligibility

- Must be an Xcel Energy Customer
- Maximum consumption based on 120% historical annual usage
- Subscription must not exceed 40% of a single garden. May subscribe to multiple gardens
- A Subscriber must be in the same or an adjacent county to the solar garden

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