



AGENDA OF THE  
REGULAR MEETING OF THE CITY COUNCIL  
CITY OF BIRCHWOOD VILLAGE  
207 BIRCHWOOD AVENUE  
WASHINGTON COUNTY, MINNESOTA  
JANUARY 8, 2013  
7:00 P.M.

**CALL TO ORDER – PLEDGE OF ALLEGIANCE**

**ADMINISTER OATHS OF OFFICE TO NEW ELECTED OFFICIALS**

**APPROVE AGENDA**

**OPEN PUBLIC FORUM**

**CITY BUSINESS – CONSENT CALENDAR**

1. Approval of the Minutes of the December 11, 2012 Regular Meeting (see exhibit)
2. Approval of the Minutes of the December 27, 2012 Special Meeting (see exhibit)
3. Approval of the Hiring of Michael McGill, Johnathan Taver and Grant Rohrig as Seasonal Rink Attendants at a wage of \$8.00 per hour, subject to Rohrig and McGill each passing a background check (see exhibit)
4. Approval of RESOLUTION 2013-01 Acceptance of Cash Donations (see exhibit)
5. Approval of RESOLUTION 2013-02 Approving State of Minnesota Joint Powers Agreements with the City of Birchwood Village On Behalf of Its City Attorney and Police Department (see exhibit)
6. Approval of RESOLUTION 2013-03 Authorizing the Ramsey Washington Suburban Cable Commission to Broadcast and Re-Broadcast Council Meetings on Other Cable Channels (see exhibit)
7. Approval of RESOLUTION 2013-04 Naming U. S. Bank, N. A. and the 4M Fund as the Official Depositories of Municipal Funds (see exhibit)
8. Approval of Mayor Mary Wingfield and Acting Mayor Randy Lafoy as Authorized Signers on Checks

**CITY BUSINESS – REGULAR ORDER**

9. 7:15 Approval of the Financial Report and Statement of Disbursements (see exhibit)  
Time Budget: 15 minutes
10. 7:30 Recognition of Outgoing Mayor and Council Members (Wingfield)  
Time Budget: 5 minutes
11. 7:35 Approval of the Mayor's 2013 Council Assignments (Wingfield - see exhibit)  
Time Budget: 10 minutes
12. 7:45 Approval of the 2013 Appointments and Assignments (Wingfield – see exhibit)  
Time Budget: 10 minutes
13. 7:55 Roads Committee: Review of Bylaws and Appointment of Committee Members (Wingfield – see exhibit)  
Time Budget: 15 minutes
14. 8:10 Saint Paul Regional Water Services: Review of Contract (Wingfield – see exhibit)  
Time Budget: 15 minutes

15. 8:20 Waste Management: Review of Recycling Contract and Draft Request For Proposals (Wingfield – see exhibits)  
Time Budget: 15 minutes
16. 8:35 Ordinance 703 (Council Vacancy – Special Election): Review (Wingfield – see exhibit)  
Time Budget: 15 minutes
17. 8:35 Review of City Fee Schedule (Wingfield – see exhibit)  
Time Budget: 15 minutes
18. 8:50 Schedule Date/Time For Council Workshops (Wingfield)
  - a. Review Finances and Expenses
  - b. Joint Meeting with Parks and Natural Resources CommitteeTime Budget: 5 minutes
19. 8:55 Review City Attorney Attendance at Council Meetings (Wingfield)  
Time Budget: 5 minutes
20. 9:00 City Engineer Appointment Process & Obtaining of Files from the former City Engineer (Wingfield)  
Time Budget: 10 minutes
21. 9:10 Planning Commission Vacancy> Post for Open Position (Wingfield)  
Time Budget: 5 minutes
22. 9:15 Consideration of Setting Staggered Terms for City Committees (Wingfield)  
Time Budget: 10 minutes
23. 9:25 Sewer Maintenance Service Options> Authorize Review (Wingfield)  
Time Budget: 10 minutes
24. 9:35 Review/Update Sewer Maintenance Policy (Wingfield – see exhibit)  
Time Budget: 10 minutes
25. 9:45 City Snow Plowing> Consideration of Establishing a Policy (Wingfield)  
Time Budget: 10 minutes
26. 9:55 City Council Reports  
Time Budget: 15 minutes
27. 10:10 ADJOURN

**CITY OF BIRCHWOOD VILLAGE  
REGULAR CITY COUNCIL MEETING  
December 11, 2012**

**MINUTES**

**MEMBERS PRESENT:** Mayor Alan Mitchell; Council Members Barb Carson, Jane Harper, Tony Sampair, and Kevin Woolstencroft

**STAFF PRESENT:** City Engineer Kristie Elfering, City Clerk Dale Powers, City Treasurer Cindie Reiter, and City Attorney Kevin Sandstrom

**OTHERS PRESENT:** Katie Cavanor, John Lund, and Bryan McGinnis

**Mitchell** called the regular meeting to order @ 7:00pm, and the Pledge of Allegiance was recited.

**AGENDA APPROVAL:** **Mitchell** mentioned that he wanted to move Agenda Item # 5 (Resolution 2012-31) to Regular Order for discussion before the Truth In Taxation (TNT) public hearing. **Mitchell** also wanted Agenda Item #'s 6d (\$1,000.00 donation to the Washington County Historical Society), 6e (Resolution 2012-32) and 9 (Tree Canopy Trimming) also discussed before the TNT public hearing, since these items involve 2012 dollars and not proposed 2013 expenditures. **Mitchell** also noted that with the agenda item pertaining to Council Member Sampair's resignation, he would like to add review and consideration of holding a public hearing of a draft ordinance requiring a special election for unfinished council terms of over a year as Agenda Item # 11c. **Harper** also wanted to add Agenda Item # 6e1 a proposed resolution transferring a sufficient amount of general fund dollars to the Sewer Fund to keep the City in compliance with bond reserve requirements.

***Mitchell/Harper unanimous to approve the agenda for the December 11, 2012 Regular Meeting, as amended to move Agenda Item # 5 (Resolution 2012-31) to Regular Order before the TNT public hearing; to discuss Agenda Item #'s 6d (\$1,000.00 donation to the Washington County Historical Society), 6e (Resolution 2012-32) and 9 (Tree Canopy Trimming) before the TNT public hearing; and to add Agenda Item # 11c (Draft Ordinance –Special Election); and to add Agenda Item # 6e1 (Resolution 2012-38 Directing the Transfer of General Fund Dollars to the Sewer Fund to Retain the Required Minimum Fund Balance for the 2004 and 2008 Sewer Bonds).***

**COMMUNITY EVENTS AND ANNOUNCEMENTS:** **Mitchell** mentioned that the City Council will be conducting a workshop meeting on Thursday, December 13<sup>th</sup> at 7:00pm at City Hall, and noted the workshop will be with the incoming Council members to brief them on ongoing Council matters and concerns; the public is invited. **Mitchell** also noted that the White Bear Lake Conservation District (WBLCD) established a Lake Level Resolution Committee and that the WBLCD will be accepting applications to serve on that Committee until January 4<sup>th</sup>. **Mitchell** announced that the Martin Luther King breakfast for the Northeast Region will be held at White Bear Unitarian Universalist Church in Mahtomedi on Monday, January 21<sup>st</sup>. **Lund** noted that Saturday, January 12<sup>th</sup> is Hockey Day in Birchwood from 11am-1pm.

**OPEN PUBLIC FORUM:** **McGinnis** addressed the Council regarding the maintenance of Owl Street, and believes that the last time street maintenance was performed in that area Owl Street was inadvertently

48 omitted. Elfering commented that Owl Street is in bad shape, and no amount of maintenance would  
49 improve the condition of the street.

50  
51 **McGinnis** also commended City Engineer Kristie Elfering for her professionalism, stating that her  
52 knowledge of the City will be sorely missed. **McGinnis** also commended the work of the current Council  
53 Members and especially Mayor Mitchell and Council Member Harper for their long service to the  
54 Birchwood community. **Mitchell** thanked McGinnis for his kind words.

55  
56 **CONSENT CALENDAR: *Sampair/Harper unanimous to approve the following consent calendar items:***

- 57  
58 1. ***Approval of the Minutes of the November 13, 2012 Canvassing Board Meeting***  
59 2. ***Approval of the Minutes of the November 13, 2012 Regular Meeting***  
60 3. ***Acceptance of the Financial Report and Disbursements Register as prepared by the City***  
61 ***Treasurer and presented to the City Council on December 11, 2012 in the amount of***  
62 ***\$65,150.72, including Check #'s 27498-27514, 27519-27595, 27538-27569, Direct Deposit #'s***  
63 ***27475DD, 27476DD, 27536DD, and 27537DD, and Electronic Funds Transfers LIFT112012,***  
64 ***PERA111512, EFT112712, FED112012, MN112012, and PERA113012***  
65 4. ***Approval of the Hiring of Joseph Morgan as an Ice Rink Warming House Attendant at a wage***  
66 ***of \$8.00 per hour, conditioned on Mr. Morgan passing a background check.***

67  
68 5. **RESOLUTION 2012-31> DIRECTING UNSPENT PARKS OPERATING FUNDS TO BE PLACED IN THE**  
69 **PARKS SPECIAL REVENUE FUND:** Harper brought this to the Council's attention, and noted that the  
70 ordinance establishing the Parks Special Revenue Fund calls for funding of the Fund from dock fees, boat  
71 slip permit fees, boat slip storage fees, and such other revenues as may be directed by the Council.  
72 Harper also noted that the Parks Committee bylaws state that any budgeted and unspent funds up to  
73 \$5,000.00 are to be carried forward for the purpose of funding park activities. Harper believes this  
74 resolution implements and clarifies for future Councils that these unspent dollars are to be placed in the  
75 Parks Special Revenue Fund for non-operating and capital expenditures. Harper did note that a  
76 correction to the draft resolution needs to be made by inserting the phrase "and unspent" between the  
77 words "budgeted" and "Parks" in the "BE IT RESOLVED" clause.

78  
79 ***Harper/Mitchell unanimous to approve Resolution 2012-31 as amended to insert the phrase "and***  
80 ***unspent" between the words "budgeted" and "Parks" in the "BE IT RESOLVED" clause of the***  
81 ***Resolution.***

82 6d. **CONSIDERATION OF PAYING FUNDING REQUEST OF \$1,000.00 TO THE WASHINGTON COUNTY**  
83 **HISTORICAL SOCIETY AS A CONTRIBUTION FOR THE ACQUISITION AND IMPROVEMENT OF REAL**  
84 **PROPERTY HOUSING THE SOCIETY FROM UNSPENT 2012 BUDGET DOLLARS:** Harper advised the  
85 Council that she went over the 2012 budget expenditures and noted that there will be \$28,000.00 in  
86 budgeted and unspent fund from the City's general fund that can be used for payment for some of the  
87 items to be discussed next.

88  
89 **Mitchell** stated that at the October 2012 meeting the Council heard from Brent Peterson from the  
90 Washington County Historical Society about a capital campaign for the acquisition and improvement of a  
91 structure in Stillwater to house the Society's offices and artifacts. Peterson requested the City contribute  
92 \$1,000.00 towards this effort; the Council expressed a desire to contribute and wanted to wait until  
93 December to see whether unspent 2012 dollars could be used for this purpose. **Mitchell** commented

94 that it appears that there will be enough unspent 2012 dollars for the Council to consider authorizing  
95 the requested contribution at this time.

96  
97 *Harper/Sampair unanimous to contribute \$1,000.00 to the Washington County Historical Society for*  
98 *the purchase of their new building.*

99  
100 **9. REPORT ON THE COST TO TRIM THE TREE CANOPY OVER THE CITY STREETS:** Mitchell  
101 commented that the amount of budgeted and unspent 2012 dollars has now been reduced to  
102 \$27,000.00. Mitchell stated that the City had received some complaints about the low-hanging tree  
103 canopy over the City streets, and the Council asked Steve Dean to provide a cost estimate for trimming  
104 the tree branches to a height of 14 feet over the street. Mitchell reviewed with the Council Dean's  
105 estimate that was in the packet and noted the cost estimate was \$8,350.00.

106  
107 Carson asked whether two motions are needed – one for approval of the project and the set aside of  
108 the dollars, the second for awarding the work to Dean. Sandstrom agreed with Carson that this action  
109 requires two separate motions.

110  
111 *Harper/Sampair unanimous to set aside \$8,350.00 from 2012 budgeted and unspent funds to*  
112 *implement the tree canopy trimming project.*

113  
114 *Sampair/Woolstencroft unanimous to accept the proposal from Steve Dean to complete the tree*  
115 *canopy trimming project for \$8,350.00 and to authorize the Mayor to sign the contract.*

116  
117 **6e1. RESOLUTION 2012-38 DIRECTING THE TRANSFER OF GENERAL FUND DOLLARS TO THE SEWER**  
118 **FUND TO RETAIN THE REQUIRED MINIMUM FUND BALANCE:** Harper brought this to the Council's  
119 attention, and noted that the City is required, as a condition of issuance of the 2004 and 2008 Sewer  
120 Bonds, to keep a minimum fund balance of \$115,000.00 in the Sewer Fund. Harper said that the  
121 financial report stated that the Sewer Fund fund balance is at \$102,000, is underfunded by \$13,000.00  
122 and needs to be replenished in order to meet the bond requirements.

123  
124 *Harper/Sampair unanimous to approve Resolution 2012-38.*

125  
126 **6e. RESOLUTION 2012-32 ESTABLISHING STREET SIGN REPLACEMENT LINE ITEM IN THE CAPITAL**  
127 **PROJECTS – PUBLIC WORKS FUND AND DESIGNATING \$3,000.00 OF UNSPENT DOLLARS FROM THE**  
128 **STREETS AND ROAD MAINTENANCE GENERAL FUND LINE ITEM TO BE ALLOCATED TO SAID STREET**  
129 **SIGN REPLACEMENT LINE ITEM:** Harper is bringing this to the Council's attention, noting that the federal  
130 government has mandated retroreflectivity standards for street signs. Harper mentioned that the  
131 mandate has been delayed until 2015, and that the Council decided to set aside \$3,000.00 per year to  
132 help cover the cost of the signs. Harper stated that Resolution 2012-32 creates a new line item in the  
133 Capital Projects –Public Works Fund for placement of these dollars and removes the expenditure from  
134 the General Fund.

135  
136 *Sampair/Harper unanimous to approve Resolution 2012-32, as amended so that the "BE IT FURTHER*  
137 *RESOLVED" clause reads as follows: "BE IT FURTHER RESOLVED that the City Council directs that the*  
138 *\$3,000.00 budgeted in 2012 for street sigs be placed in said "Street Sign Replacement" line item under*  
139 *the "Capital Projects-Public Works" fund.*

140

141 **6. PUBLIC HEARING: TRUTH IN TAXATION and ADOPTION OF THE FINAL LEVY AND FINAL BUDGET**  
142 **FOR 2013:** Harper went over the proposed Final Levy and Final Budget for 2013, and noted that there  
143 are no proposed changes to the preliminary levy and budget. Mitchell opened the public Truth In  
144 Taxation (TNT) hearing at 7:43pm. There were no comments from the public on the proposed levy and  
145 budget.

146  
147 **6b. PRESENTATION OF PARKS COMMITTEE REVISED 2013 BUDGET AND WORK PLAN:** Cavanor  
148 went over the various line items of the revised Parks budget and work plan with the Council, factoring in  
149 the clarification from the Council on what activities can be funded through the Parks Special Revenue  
150 Fund. Cavanor noted the following changes: winter seasonal employees increased to \$7,500.00; hockey  
151 rink equipment increased to \$655.00 due to the cost of hoses and scrapers; the hockey rink floor repairs  
152 were moved to the Parks Special Revenue Fund; the replacement boards for the hockey rink were taken  
153 care of in 2012, so they were removed for 2013; the repairs to the picnic tables and benches were  
154 moved to the Parks Special Revenue Fund; the tennis court maintenance – involving removal of a tree  
155 and fixing the surface – was moved to the Parks Special Revenue Fund; the walkway costs and weed  
156 control were removed (Cavanor urged adoption of an improvement plan for long-term parks  
157 maintenance); as for easement cleanup, Cavanor mentioned that after talking with Council Member  
158 Harper that the costs for spring and fall easement cleanup should come under the City and not the  
159 parks, resulting in lowering the cost to \$675.00 for weed control on sand beaches. Cavanor also said  
160 that the Elm easement project is on the Committee's radar but they don't the ability to cost it out at this  
161 time.

162  
163 Harper asked Cavanor about two of the projects: weed control and turf management, and the Elm  
164 easement, and it sounds like these will be addressed in 2013, and asked if there is any way to signal the  
165 budget for these activities through the Parks Special Revenue Fund. Carson suggested a paragraph in the  
166 work plan that mentions these projects. Cavanor said it was up to the Council on how to address this.  
167 Sampair asked Elfering about the proposed cost of the rip-rap project; Elfering believes the cost should  
168 be in the \$3,000.00 range. Harper advised the Council that there is \$9,900.00 in the Parks Special  
169 Revenue Fund, so the Council could plug in some dollars for those projects, and recommends \$3,000.00  
170 for turf management and \$4,000.00 for the Elm easement.

171  
172 *Carson/Sampair unanimous to approve the Parks Committee 2013 budget and work plan, amended to*  
173 *add \$3,000.00 for turf management and \$4,000.00 for work on the Elm easement.*

174  
175 Cavanor also wanted to share with the Council that the warming house project is still a priority for the  
176 Committee, and that the Parks Committee will be meeting on January 28<sup>th</sup> to review citizen ideas and  
177 plans for the warming house. Harper commented that she believes a joint meeting with the Committee  
178 and the Council would be helpful in making sure the Council and Committee communicate with each  
179 other on goal setting and that both entities are moving together and not going ahead of each other.

180  
181 **6. COUNCIL COMMENTS ON PROPOSED BUDGET AND LEVY:** Mitchell made the following  
182 comments on the proposed budget:

183  
184 **Line 32 (Revenue-Fines):** Mitchell said that if the Council authorizes administrative fines as part of the  
185 proposed penalties and enforcement ordinance, the proposed \$650.00 in revenue should be increased;  
186 however, that will not impact the levy.

187 **Line 109 (Engineer-Professional Services):** Mitchell noted that the City will most likely see an increase in  
188 engineering services, and the budget should be increased to account for this. Sampair said he had

189 contacted some engineers and thinks the number should be increased, as Elfering's knowledge of the  
190 City's infrastructure saved the City a lot of dollars.

191 **Line 177 (Snow Plowing):** With the last snowfall, if the City gets any more of these the budget should be  
192 increased.

193 **Line 230 (Lake Level Study):** Mitchell noted that this was paid from this year's budget and should be  
194 deleted.

195  
196 **Harper** noted the following budget line items that can be reduced to fund the additional dollars for the  
197 engineering services:

198

199 **Line 129 (Government Buildings)** is suggested to be reduced from \$8,550.00 to \$7,000.00.

200 **Line 162 (Highways, Streets, and Roadways – Contracted Services)** is suggested to be reduced from  
201 \$6,000.00 to \$4,500.00.

202

203 **Harper** said that with the \$500.00 savings from paying the lake level study this year, that leaves  
204 \$3,550.00 in savings that could be used to increase the engineer line item. **Mitchell** recommends adding  
205 \$2,000.00 to the engineer line item and \$1,550.00 to miscellaneous.

206

207 **Mitchell** closed the public hearing @ 8:15pm.

208

209 **6f. RESOLUTION 2012-33 FINAL LEVY ADOPTION: Harper/Sampair unanimous to approve**  
210 **Resolution 2012-33 setting the Final Levy for 2012 payable in 2013 at \$336,013.00.**

211

212 **6g. RESOLUTION 2012-34 FINAL BUDGET ADOPTION: Harper/Sampair unanimous to approve**  
213 **Resolution 2012-34 setting the 2013 Final Budget at \$373,310.00.**

214

215 **7. RESOLUTION 2012-35 APPROVING ORDINANCE 2012-11 ADOPTING CITY CODE CHAPTER 618**  
216 **ADMINISTRATIVE COMPLAINT PROCESS:** Mitchell went over his explanatory memo on the ordinance,  
217 and noted that the Council has been working on this matter for close to a year.

218

219 **Mitchell** opened the public hearing @ 8:19pm and, noting no members of the public wishing to testify,  
220 closed the public hearing @8:20pm.

221

222 **Sampair/Mitchell unanimous to approve Resolution 2012-35.**

223

224 **8. RESOLUTION 2012-36 APPROVING ORDINANCE 2012-12 ADOPTING CITY CODE CHAPTER 619**  
225 **PENALTIES AND ENFORCEMENT:** Mitchell said the proposal for administrative fines was the one area of  
226 disagreement between himself and Sampair, and noted that they agreed to get the language for  
227 administrative fines out to the Council for review before the meeting. **Mitchell** said that Sampair's  
228 language is in the packet; **Mitchell** also has a version at the table for comparison purposes. **Sampair** said  
229 that the Mitchell version is close enough to what he wanted and supports that version of the  
230 administrative fine clause of the ordinance.

231

232 **Mitchell** is opposed to administrative fines due to their questionable legality, and also noted that if  
233 administrative fines are allowed to have a more thorough schedule of fines. **Sampair** responded by  
234 saying that the future Council could address development of a fine schedule, and that it is important to  
235 establish by ordinance the authority of the City to impose administrative fines.

236

237 *Sampair/Harper 2-3 (Mitchell, Carson, and Woolstencroft opposed) to approve Resolution 2012-36*  
238 *adopting Ordinance 2012-12 with the Mitchell administrative fine language. The motion failed.*  
239

240 *Mitchell/Carson 3-2 (Harper and Sampair opposed) to approve Resolution 2012-dopt Resolution 2012-*  
241 *36 adopting Ordinance 2012-12 without any provision for administrative fines. The motion was*  
242 *approved.*  
243

244 **10. CITY ENGINEER'S REPORT:** Elfering updated the Council on the easement survey project  
245 involving Tighe-Schmitz Park, and Dellwood & Kay easements, and noted that the east half of the  
246 Dellwood easement – unlike the west half – did not specify a perpendicular width, and between the  
247 notes in the County Recorder's office and the notes on the plat establishing the east half of Dellwood  
248 Street that the width of the east half of Dellwood Street is 22.18 feet; and noted that while there were  
249 several surveys recently performed on the lots north of Kay Beach, Elfering said that the monuments are  
250 in conflict with each other and that, in her professional opinion, the monumentation set by Otto  
251 Associates is the most accurate.  
252

253 Elfering also updated the Council on the Streets Capital Improvement Plan, and commented on the  
254 annual work report of Saint Paul Regional Water Services.  
255

256 **11ab. COUNCIL REPORTS> RESIGNATION OF COUNCIL MEMBER ANTHONY SAMPAIR; RESOLUTION**  
257 **2012-37 ACCEPTING THE RESIGNATION OF COUNCIL MEMBER SAMPAIR AND DECLARING A COUNCIL**  
258 **VACANCY:** Sampair noted that he has some future business commitments that will preclude him from  
259 being an effective council member, and said that the Council accomplished a lot in the last two years  
260 and the Council and staff has done a fantastic job.  
261

262 Mitchell went over the enclosed Resolution 2012-37 accepting Sampair's resignation, and noted that he  
263 believes 2 years is too long a time to fill by appointment. Mitchell believes a special election should be  
264 conducted to fill the vacancy, and went over a draft version of an ordinance calling for a special election  
265 to fill vacancies that exceed one year. Mitchell also went over an amended version of Resolution 2012-  
266 37 that recognizes the potential of a special election.  
267

268 *Mitchell/Carson unanimous to approve Resolution 2012-37 as amended.*  
269

270 The Council next discussed when to schedule a special council meeting to appoint Sampair's successor  
271 and to hold a public hearing on the proposed special election ordinance.  
272

273 *Mitchell/Carson unanimous to hold a special meeting for 7:00pm on December 27, 2012 for the*  
274 *purposes of filling the vacancy created by Sampair's resignation and to hold a public hearing on the*  
275 *proposed special election ordinance, as amended to change the deadline for receipt of statements of*  
276 *interest to be submitted to 4:00pm on Wednesday, December 26, 2012.*  
277

278 **12. RECOGNITION OF OUTGOING ELECTED OFFICIALS:** Powers, on behalf of the staff and residents  
279 of the City, thanked the outgoing elected officials for their service to the City and presented certificates  
280 of appreciation to Mayor Mitchell and Council Members Carson, Harper, and Sampair.  
281

282 **13. NEXT MEETINGS> DECEMBER 13, 2012 AND JANUARY 8, 2013 – TOPICS:** Mitchell mentioned  
283 the workshop for December 13<sup>th</sup> is for orientation of the newly elected and appointed Council members,  
284 and to advise the new Council on matters pending for 2013. Mitchell also said that the first meeting

285 involving the new Council will be on January 8<sup>th</sup>; at this meeting, the Council will organize themselves,  
286 ratify Council assignments and appointments made by the incoming Mayor, and to appoint the Acting  
287 Mayor, official newspaper, and official depository.

288

289 **14. ADJOURN: *Harper/Sampair unanimous to adjourn the meeting @ 9:26pm.***

290

291

292

293

---

294 Dale Powers

295 City Clerk

CITY OF BIRCHWOOD VILLAGE  
SPECIAL CITY COUNCIL MEETING  
December 27, 2012

MINUTES

**MEMBERS PRESENT:** Mayor Alan Mitchell; Council Members Barb Carson, Jane Harper, Vacant, and Kevin Woolstencroft

**STAFF PRESENT:** City Treasurer Cindie Reiter,

**OTHERS PRESENT:** Greg Donovan

Mitchell called the special meeting to order @ 7:07pm, and the Pledge of Allegiance was said. Mitchell explained the purpose of the special meeting was to fill a vacancy after the resignation of Anthony Sampair and for the city to consider the adoption of an ordinance to establish a process to fill vacancies exceeding two years.

**AGENDA APPROVAL:**

*Harper/Carson unanimous to approve the agenda for the December 27, 2012 Special Meeting  
4 Ayes/1 Vacant*

**COMMUNITY EVENTS AND ANNOUNCEMENTS:** Mayor Mitchell announced the following:

- Hockey rink was open,
- Applications for the new Lake Level Resolution Committee were due by January 4, 2013, to the White Bear Lake Conservation District.
- Martin Luther King breakfast for the Northeast Region will be held at White Bear Unitarian Universalist Church in Mahtomedi on Monday, January 21<sup>st</sup>.

**1. APPOINTMENT TO FILL CITY COUNCIL VACANCY**

Greg Donovan, resident, application received. Mr. Donovan stated his qualifications included volunteer service on several city commissions and the White Bear Lake Conservation District Board.

*Mitchell/Woolstencroft Motion to appoint Greg Donovan to vacant city council seat.*

Councilmember Harper inquired about the ability of a councilmember to be appointed to the RW Suburban Cable Commission, noting that it traditionally has been a resident appointee.

Mr. Donovan presented that currently there are 7 elected officials seated on the RWSCC so as he understands it is permitted and believes prior Birchwood elected officials have served RWSCC also.

*Motion passed 4 Ayes/1 Vacant*

Mitchell administered the Oath of Office and Donovan was seated.

**2. RESOLUTION 2012-39/ORDINANCE 2012-13 ADOPTION OF NEW CHAPTER 703 COUNCIL VACANCY – SPECIAL ELECTION**

46 **Mitchell** presented state statute requires a city must specify the process of a special election if more  
47 than two years remain. **Mitchell** explained that while the statute referred to vacancies for longer than  
48 two years, he thought that two years was too long to serve by appointment and that the the draft  
49 ordinance provides for a Special Election if more than 12 months of vacancy exists.

50  
51 **Mayor Mitchell opened the public hearing and immediately closed the public hearing as no one was**  
52 **in attendance and no written comments were received.**

53  
54 Council discussion noted the following;

55 The section requiring a vacancy to be filled within 60 days of the vacancy should be clarified to  
56 provide that no replacement can be appointed prior to the vacancy actually occurring. The requirement  
57 for a special election was clarified to apply to any vacancy that was longer than sixteen months, not two  
58 years, since allowing four months to hold the election would mean that no person could serve longer  
59 than one year by appointment.

60  
61 ***Mitchell/Harper motion to approve Chapter 703 as amended with publication of the ordinance in its***  
62 ***entirety in the city newspaper.***

63  
64 **Motion Passed 3 Ayes/Donovan Abstained stating he had just received & seen the packet this**  
65 **evening. Woolstencroft Abstained stating he was still rather new to the process.**

66  
67 Mitchell announced the next regular city council meeting is January 8, 2013 with agenda packet ready  
68 on January 3, 2013.

69  
70  
71 **14. ADJOURN: *Harper motion to adjourn at 7:49 pm All Ayes***

72  
73  
74  
75  
76 \_\_\_\_\_  
77 Attest; Cindie J Reiter, MCMC  
78 City Treasurer

REC'D DEC 1 2012

# APPLICATION FOR EMPLOYMENT

**PERSONAL INFORMATION**

DATE OF APPLICATION: 12/18/12

Name: McGill Michael Patrick  
Last First Middle

Address: 1340 Everest Place Mahometi/MN 55115  
Street (Apt) City/State Zip

Alternate Address: \_\_\_\_\_  
Street City/State Zip

Contact Information: \_\_\_\_\_  
Home Telephone Mobile Telephone Email

*How did you learn about our company?*

**POSITION SOUGHT:** Rink Attendant Available Start Date: Whenever

Desired Pay Range: Minimum wage Are you currently employed? No  
Hourly or Salary

**EDUCATION**

	Name and Location	Graduate? - Degree?	Major / Subjects of Study
High School	Cornia-Dorham Hill 550 S. Albert St., St. Paul	Not yet, in my sophomore year	Math, science, history, French, english
College or University			
Specialized Training, Trade School, etc...			
Other Education			

Please list your areas of highest proficiency, special skills or other items that may contribute to your abilities in performing the above mentioned position.

I have helped shovel out the Birchwood Rink many times as well as helped flood many of my friends rinks. I can skate and I work well in the cold.

RECEIVED  
JAN 02 2013

# APPLICATION FOR EMPLOYMENT

BY:

## PERSONAL INFORMATION

DATE OF APPLICATION: 12/26/12

Name: Taver Johnathan Jacob  
Last First Middle

Address: 5945 Norway Pine Ct. White Bear Lake 58110  
Street (Apt) City/State Zip

Alternate Address: \_\_\_\_\_  
Street City/State Zip

Contact Information: \_\_\_\_\_  
Home Telephone Mobile Telephone Email

How did you learn about our company?

POSITION SOUGHT: Ring attendant Available Start Date: Jan 1

Desired Pay Range: \_\_\_\_\_ Are you currently employed? No  
Hourly or Salary

## EDUCATION

	Name and Location	Graduate? - Degree?	Major / Subjects of Study
High School	<u>White Bear Lake</u>	<u>June 2013</u>	
College or University			
Specialized Training, Trade School, etc...			
Other Education			

Please list your areas of highest proficiency, special skills or other items that may contribute to your abilities in performing the above mentioned position.

I play hockey and maintain a pond in the winter, I have worked in customer service

# APPLICATION FOR EMPLOYMENT

**PERSONAL INFORMATION**

DATE OF APPLICATION: 12-27-12

Name: Ronri Grani A  
Last First Middle

Address: 8727 Jeffrey Ave North Grani MD 55082  
Street (Apt) City/State Zip

Alternate Address: \_\_\_\_\_  
Street City/State Zip

Contact Information: \_\_\_\_\_  
Home Telephone Mobile Telephone Email

*How did you learn about our company?*

**POSITION SOUGHT:** Rink Attendant **Available Start Date:** Jan 2

**Desired Pay Range:** 8 to 9 **Are you currently employed?** NO  
Hourly or Salary

**EDUCATION**

	Name and Location	Graduate? - Degree?	Major / Subjects of Study
High School	Mantoloking High School	Graduate	
College or University	UMD	in school	Athletic training
Specialized Training, Trade School, etc...			
Other Education		First Responder	Degree

Please list your areas of highest proficiency, special skills or other items that may contribute to your abilities in performing the above mentioned position.

I am a eagle scout, A life guard and an EMT/First Responder. With these skills I can make the Ice rink a safe place to skate.

**RESOLUTION 2013-01**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION ACCEPTING A DONATION OF CASH FROM ARTISTS GROUP  
MEMBERS SALLY MCNAMARA, SUSAN TURNOCK, AND CARL & RUTH  
JOHNSON**

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of  
Birchwood Village that:

The City Council accepts the following cash donations from members of the  
Artists Group:

- \$180.00 from Sally J. McNamara
- \$10.00 from Susan E. Turnock
- \$10.00 from Carl and Ruth Johnson

I certify that the City of Birchwood Village adopted the above Resolution on this  
8th day of January, 2013.

\_\_\_\_\_  
Mary Wingfield, Mayor

ATTEST:

\_\_\_\_\_  
Dale Powers  
City Coordinator

**RESOLUTION 2013-02  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**RESOLUTION APPROVING STATE OF MINNESOTA JOINT POWERS AGREEMENTS WITH THE CITY OF BIRCHWOOD VILLAGE ON BEHALF OF ITS CITY ATTORNEY AND POLICE DEPARTMENT**

WHEREAS, the City of Birchwood Village, on behalf of its Prosecuting Attorney and Police Department desires to enter into Joint Powers Agreements with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to use systems and tools available over the State's criminal justice data communications network for which the City is eligible. The Joint Powers Agreements further provide the City with the ability to add, modify and delete connectivity, systems and tools over the five year life of the agreement and obligates the City to pay the costs for the network connection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Birchwood Village, Washington County, Minnesota as follows:

1. That the State of Minnesota Joint Powers Agreements by and between the State of Minnesota acting through its Department of Public Safety, Bureau of Criminal Apprehension and the City of Birchwood Village on behalf of its Prosecuting Attorney and Police Department, are hereby approved. Copies of the two Joint Powers Agreements are attached to this Resolution and made a part of it.

2. That White Bear Lake Police Chief Lynne Banks, or her successor, is designated the Authorized Representative for the Police Department. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.

To assist the Authorized Representative with the administration of the agreement, Megan Christensen and Cindy Ristow, White Bear Lake Police Department Police Records Technicians, are appointed as the Authorized Representative's designees.

3. That the Assistant City Attorney Wendy Murphy, or her successor, is designated the Authorized Representative for the Prosecuting Attorney. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.

To assist the Authorized Representative with the administration of the agreement, Prosecution Paralegal Rachel Ward is appointed as the Authorized Representative's designee.

4. That Mary Wingfield, the Mayor for the City of Birchwood Village, and Dale Powers, the City Coordinator, are authorized to sign the State of Minnesota Joint Powers Agreements.

Passed and Adopted by the Council on this 8th day of January, 2013.

**CITY OF BIRCHWOOD VILLAGE**

\_\_\_\_\_  
Mary Wingfield, Mayor

ATTEST: \_\_\_\_\_  
Dale R. Powers, City Coordinator

**STATE OF MINNESOTA  
JOINT POWERS AGREEMENT  
CRIMINAL JUSTICE AGENCY**

This agreement is between the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension ("BCA") and the City of Birchwood on behalf of its Prosecuting Attorney ("Agency").

**Recitals**

Under Minn. Stat. § 471.59, the BCA and the Agency are empowered to engage in such agreements as are necessary to exercise their powers. Under Minn. Stat. § 299C.46 the BCA must provide a criminal justice data communications network to benefit criminal justice agencies in Minnesota. The Agency is authorized by law to utilize the criminal justice data communications network pursuant to the terms set out in this agreement. In addition, BCA either maintains repositories of data or has access to repositories of data that benefit criminal justice agencies in performing their duties. Agency wants to access these data in support of its criminal justice duties.

The purpose of this Agreement is to create a method by which the Agency has access to those systems and tools for which it has eligibility, and to memorialize the requirements to obtain access and the limitations on the access.

**Agreement**

**1 Term of Agreement**

- 1.1 Effective date:** This Agreement is effective on the date the BCA obtains all required signatures under Minn. Stat. § 16C.05, subdivision 2.
- 1.2 Expiration date:** This Agreement expires five years from the date it is effective.

**2 Agreement between the Parties**

**2.1 General access.** BCA agrees to provide Agency with access to the Minnesota Criminal Justice Data Communications Network (CJDN) and those systems and tools which the Agency is authorized by law to access via the CJDN for the purposes outlined in Minn. Stat. § 299C.46.

**2.2 Methods of access.**

The BCA offers three (3) methods of access to its systems and tools. The methods of access are:

**A. Direct access** occurs when individual users at the Agency use Agency's equipment to access the BCA's systems and tools. This is generally accomplished by an individual user entering a query into one of BCA's systems or tools.

**B. Indirect access** occurs when individual users at the Agency go to another Agency to obtain data and information from BCA's systems and tools. This method of access generally results in the Agency with indirect access obtaining the needed data and information in a physical format like a paper report.

**C. Computer-to-computer system interface** occurs when Agency's computer exchanges data and information with BCA's computer systems and tools using an interface. Without limitation, interface types include: state message switch, web services, enterprise service bus and message queuing.

For purposes of this Agreement, Agency employees or contractors may use any of these methods to use BCA's systems and tools as described in this Agreement. Agency will select a method of access and can change the methodology following the process in Clause 2.10.

**2.3 Federal systems access.** In addition, pursuant to 28 CFR §20.30-38 and Minn. Stat. §299C.58, BCA will provide Agency with access to the Federal Bureau of Investigation (FBI) National Crime Information Center.

**2.4 Agency policies.** Both the BCA and the FBI's Criminal Justice Information Systems (FBI-CJIS) have policies, regulations and laws on access, use, audit, dissemination, hit confirmation, logging, quality assurance, screening (pre-employment), security, timeliness, training, use of the system, and validation. Agency has created its own policies to ensure that Agency's employees and contractors comply with all applicable requirements. Agency ensures this compliance through appropriate enforcement. These BCA and FBI-CJIS policies and regulations, as amended and updated from time to time, are incorporated into this Agreement by reference. The policies are available at [www.dps.state.mn.us/cjdn/](http://www.dps.state.mn.us/cjdn/).

**2.5 Agency resources.** To assist Agency in complying with the federal and state requirements on access to and use of the various systems and tools, information is available at <https://sps.x.state.mn.us/sites/bcaservicecatalog/default.aspx>.

**2.6 Access granted.**

A. Agency is granted permission to use all current and future BCA systems and tools for which Agency is eligible. Eligibility is dependent on Agency (i) satisfying all applicable federal or state statutory requirements; (ii) complying with the terms of this Agreement; and (iii) acceptance by BCA of Agency's written request for use of a specific system or tool.

B. To facilitate changes in systems and tools, Agency grants its Authorized Representative authority to make written requests for those systems and tools provided by BCA that the Agency needs to meet its criminal justice obligations and for which Agency is eligible.

**2.7 Future access.** On written request by Agency, BCA also may provide Agency with access to those systems or tools which may become available after the signing of this Agreement, to the extent that the access is authorized by applicable state and federal law. Agency agrees to be bound by the terms and conditions contained in this Agreement that when utilizing new systems or tools provided under this Agreement.

**2.8 Limitations on access.** BCA agrees that it will comply with applicable state and federal laws when making information accessible. Agency agrees that it will comply with applicable state and federal laws when accessing, entering, using, disseminating, and storing data. Each party is responsible for its own compliance with the most current applicable state and federal laws.

**2.9 Supersedes prior agreements.** This Agreement supersedes any and all prior agreements between the BCA and the Agency regarding access to and use of systems and tools provided by BCA.

**2.10 Requirement to update information.** The parties agree that if there is a change to any of the information whether required by law or this Agreement, the party will send the new information to the other party in writing within 30 days of the change. This clause does not apply to changes in systems or tools provided under this Agreement.

This requirement to give notice additionally applies to changes in the individual or organization serving a city as its prosecutor. Any change in performance of the prosecutorial function needs to be provided to the BCA in writing by giving notice to the Service Desk, [BCA.ServiceDesk@state.mn.us](mailto:BCA.ServiceDesk@state.mn.us).

**2.11 Transaction record.** The BCA creates and maintains a transaction record for each exchange of data utilizing its systems and tools. In order to meet FBI-CJIS requirements and to perform the audits described in Clause 7, there must be a method of identifying which individual users at the Agency conducted a particular transaction.

If Agency uses either direct access as described in Clause 2.2A or indirect access as described in Clause 2.2B, BCA's transaction record meets FBI-CJIS requirements.

When Agency's method of access is a computer to computer interface as described in Clause 2.2C, the Agency must keep a transaction record sufficient to satisfy FBI-CJIS requirements and permit the audits described in Clause 7 to occur.

If an Agency accesses and maintains data from the Driver and Vehicle Services Division in the Minnesota Department of Public Safety, Agency must have a transaction record of all access to the data that are maintained. The transaction record must include the individual user who requested access, and the date, time and content of the request. The transaction record must also include the date, time and content of the response along with the destination to which the data were sent. The transaction record must be maintained for a minimum of six (6) years from the date the transaction occurred and must be made available to the BCA within one (1) business day of the BCA's request.

**2.12 Court information access.** Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes the Court Data Services Subscriber Amendment, which upon execution will be incorporated into this Agreement by reference. These BCA systems and tools are identified in the written request made by Agency under Clause 2.6 above. The Court Data Services Subscriber Amendment provides important additional terms, including but not limited to privacy (see Clause 8.2, below), fees (see Clause 3 below), and transaction records or logs, that govern Agency's access to and/or submission of the Court Records delivered through the BCA systems and tools.

### **3 Payment**

The Agency understands there is a cost for access to the criminal justice data communications network described in Minn. Stat. § 299C.46. At the time this Agreement is signed, BCA understands that a third party will be responsible for the cost of access.

Agency will identify the third party and provide the BCA with the contact information and its contact person for billing purposes so that billing can be established. The Agency will provide updated information to BCA's Authorized Representative within ten business days when this information changes.

If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, additional fees, if any, are addressed in that amendment.

### **4 Authorized Representatives**

The BCA's Authorized Representative is Dana Gotz, Department of Public Safety, Bureau of Criminal Apprehension, Minnesota Justice Information Services, 1430 Maryland Avenue, St. Paul, MN 55106, 651-793-1007, or her successor.

The Agency's Authorized Representative is Dale Powers, City Clerk, 207 Birchwood Avenue, Birchwood, MN 55110, 651-426-3403, or his/her successor.

### **5 Assignment, Amendments, Waiver, and Contract Complete**

**5.1 Assignment.** Neither party may assign nor transfer any rights or obligations under this Agreement.

**5.2 Amendments.** Any amendment to this Agreement, except those described in Clauses 2.6 and 2.7 above must be in writing and will not be effective until it has been signed and approved by the same parties who signed and approved the original agreement, or their successors in office.

**5.3 Waiver.** If either party fails to enforce any provision of this Agreement, that failure does not waive the provision or the right to enforce it.

**5.4 Contract Complete.** This Agreement contains all negotiations and agreements between the BCA and the Agency. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

### **6 Liability**

Each party will be responsible for its own acts and behavior and the results thereof and shall not be responsible or liable for the other party's actions and consequences of those actions. The Minnesota Torts Claims Act, Minn. Stat. § 3.736 and other applicable laws govern the BCA's liability. The Minnesota Municipal Tort Claims Act, Minn. Stat. Ch. 466, governs the Agency's liability.

**7 Audits**

**7.1** Under Minn. Stat. § 16C.05, subd. 5, the Agency's books, records, documents, internal policies and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA, the State Auditor or Legislative Auditor, as appropriate, for a minimum of six years from the end of this Agreement. Under Minn. Stat. § 6.551, the State Auditor may examine the books, records, documents, and accounting procedures and practices of BCA. The examination shall be limited to the books, records, documents, and accounting procedures and practices that are relevant to this Agreement.

**7.2** Under applicable state and federal law, the Agency's records are subject to examination by the BCA to ensure compliance with laws, regulations and policies about access, use, and dissemination of data.

**7.3** If Agency accesses federal databases, the Agency's records are subject to examination by the FBI and Agency will cooperate with FBI examiners and make any requested data available for review and audit.

**7.4** To facilitate the audits required by state and federal law, Agency is required to have an inventory of the equipment used to access the data covered by this Agreement and the physical location of each.

**8 Government Data Practices**

**8.1 BCA and Agency.** The Agency and BCA must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, as it applies to all data accessible under this Agreement, and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Agency under this Agreement. The remedies of Minn. Stat. §§ 13.08 and 13.09 apply to the release of the data referred to in this clause by either the Agency or the BCA.

**8.2 Court Records.** If Agency chooses to execute the Court Data Services Subscriber Amendment referred to in Clause 2.12 in order to access and/or submit Court Records via BCA's systems, the following provisions regarding data practices also apply. The Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court. All parties acknowledge and agree that Minn. Stat. § 13.03, subdivision 4(e) requires that the BCA and the Agency comply with the Rules of Public Access for those data received from Court under the Court Data Services Subscriber Amendment. All parties also acknowledge and agree that the use of, access to or submission of Court Records, as that term is defined in the Court Data Services Subscriber Amendment, may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law. All parties acknowledge and agree that these applicable restrictions must be followed in the appropriate circumstances.

**9 Investigation of alleged violations; sanctions**

For purposes of this clause, "Individual User" means an employee or contractor of Agency.

**9.1 Investigation.** Agency and BCA agree to cooperate in the investigation and possible prosecution of suspected violations of federal law, state law, and policies and procedures referenced in this Agreement. When BCA becomes aware that a violation may have occurred, BCA will inform Agency of the suspected violation, subject to any restrictions in applicable law. When Agency becomes aware that a violation has occurred, Agency will inform BCA subject to any restrictions in applicable law.

**9.2 Sanctions Involving Only BCA Systems and Tools.**

The following provisions apply to BCA systems and tools not covered by the Court Data Services Subscriber Amendment.

**9.2.1** For BCA systems and tools that are not covered by the Court Data Services Subscriber Amendment, Agency must determine if and when an involved Individual User's access to systems or tools is to be temporarily or permanently eliminated. The decision to suspend or terminate access may be made as soon as alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. Agency must report the status of the Individual User's access to BCA without delay.

**9.2.2** If BCA determines that Agency has jeopardized the integrity of the systems or tools covered in this Clause 9.2, BCA may temporarily stop providing some or all the systems or tools under this Agreement until the failure is remedied to the BCA's satisfaction. If Agency's failure is continuing or repeated, Clause 11.1 does not apply and BCA may terminate this Agreement immediately.

**9.3 Sanctions Involving Only Court Data Services**

The following provisions apply to those systems and tools covered by the Court Data Services Subscriber Amendment, if it has been signed by Agency. As part of the agreement between the Court and the BCA for the delivery of the systems and tools that are covered by the Court Data Services Subscriber Amendment, BCA is required to suspend or terminate access to or use of the systems and tools either on its own initiative or when directed by the Court. The decision to suspend or terminate access may be made as soon as an alleged violation is discovered, after notice of an alleged violation is received, or after an investigation has occurred. The decision to suspend or terminate may also be made based on a request from the Authorized Representative of Agency. The agreement further provides that only the Court has the authority to reinstate access and use.

**9.3.1** Agency understands that if it has signed the Court Data Services Subscriber Amendment and if Agency's Individual Users violate the provisions of that Amendment, access and use will be suspended by BCA or Court. Agency also understands that reinstatement is only at the direction of the Court.

**9.3.2** Agency further agrees that if Agency believes that one or more of its Individual Users have violated the terms of the Amendment, it will notify BCA and Court so that an investigation as described in Clause 9.1 may occur.

**10 Venue**

Venue for all legal proceedings involving this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

**11 Termination**

**11.1 Termination.** The BCA or the Agency may terminate this Agreement at any time, with or without cause, upon 30 days' written notice to the other party's Authorized Representative.

**11.2 Termination for Insufficient Funding.** Either party may immediately terminate this Agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services covered here. Termination must be by written notice to the other party's authorized representative. The Agency is not obligated to pay for any services that are provided after notice and effective date of termination. However, the BCA will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. Neither party will be assessed any penalty if the agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. Notice of the lack of funding must be provided within a reasonable time of the affected party receiving that notice.

**12 Continuing obligations**

The following clauses survive the expiration or cancellation of this Agreement: 6. Liability; 7. Audits; 8. Government Data Practices; 9. Investigation of alleged violations; sanctions; and 10. Venue.

(THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK)

**The parties indicate their agreement and authority to execute this Agreement by signing below.**

**1. STATE ENCUMBRANCE VERIFICATION**

*Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.*

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

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

CFMS Contract No. A- \_\_\_\_\_

**2. AGENCY**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**4. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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

## **COURT DATA SERVICES SUBSCRIBER AMENDMENT TO CJDN SUBSCRIBER AGREEMENT**

This Court Data Services Subscriber Amendment (“Subscriber Amendment”) is entered into by the State of Minnesota, acting through its Department of Public Safety, Bureau of Criminal Apprehension, (“BCA”) and the City of Birchwood on behalf of its Prosecuting Attorney (“Agency”), and by and for the benefit of the State of Minnesota acting through its State Court Administrator’s Office (“Court”) who shall be entitled to enforce any provisions hereof through any legal action against any party.

### **Recitals**

This Subscriber Amendment modifies and supplements the Agreement between the BCA and Agency, SWIFT Contract number 28283, of even or prior date, for Agency use of BCA systems and tools (referred to herein as “the CJDN Subscriber Agreement”). Certain BCA systems and tools that include access to and/or submission of Court Records may only be utilized by the Agency if the Agency completes this Subscriber Amendment. The Agency desires to use one or more BCA systems and tools to access and/or submit Court Records to assist the Agency in the efficient performance of its duties as required or authorized by law or court rule. Court desires to permit such access and/or submission. This Subscriber Amendment is intended to add Court as a party to the CJDN Subscriber Agreement and to create obligations by the Agency to the Court that can be enforced by the Court. It is also understood that, pursuant to the Master Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA, the BCA is authorized to sign this Subscriber Amendment on behalf of Court. Upon execution the Subscriber Amendment will be incorporated into the CJDN Subscriber Agreement by reference. The BCA, the Agency and the Court desire to amend the CJDN Subscriber Agreement as stated below.

The CJDN Subscriber Agreement is amended by the addition of the following provisions:

1. **TERM; TERMINATION; ONGOING OBLIGATIONS.** This Subscriber Amendment shall be effective on the date finally executed by all parties and shall remain in effect until expiration or termination of the CJDN Subscriber Agreement unless terminated earlier as provided in this Amendment. Any party may terminate this Amendment with or without cause by giving written notice to all other parties. The effective date of the termination shall be thirty days after the other party's receipt of the notice of termination, unless a later date is specified in the notice. The provisions of sections 5 through 9, 12.b., 12.c., and 15 through 24 shall survive any termination of this Amendment as shall any other provisions which by their nature are intended or expected to survive such termination. Upon termination, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

2. **Definitions.** Unless otherwise specifically defined, each term used herein shall have the meaning assigned to such term in the CJDN Subscriber Agreement.

a. **“Authorized Court Data Services”** means Court Data Services that have been authorized for delivery to CJDN Subscribers via BCA systems and tools pursuant to an Authorization Amendment to the Joint Powers Agreement for Delivery of Court Data Services to CJDN Subscribers (“Master Authorization Agreement”) between the Court and the BCA.

b. **“Court Data Services”** means one or more of the services set forth on the Justice Agency Resource webpage of the Minnesota Judicial Branch website (for which the current address is [www.courts.state.mn.us](http://www.courts.state.mn.us)) or other location designated by the Court, as the same may be amended from time to time by the Court.

c. **“Court Records”** means all information in any form made available by the Court to Subscriber through the BCA for the purposes of carrying out this Subscriber Amendment, including:

i. **“Court Case Information”** means any information in the Court Records that conveys information about a particular case or controversy, including without limitation Court Confidential Case Information, as defined herein.

ii. **“Court Confidential Case Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that conveys information about a particular case or controversy.

iii. **“Court Confidential Security and Activation Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access and that explains how to use or gain access to Court Data Services, including but not limited to login account names, passwords, TCP/IP addresses, Court Data Services user manuals, Court Data Services Programs, Court Data Services Databases, and other technical information.

iv. **“Court Confidential Information”** means any information in the Court Records that is inaccessible to the public pursuant to the Rules of Public Access, including without limitation both i) Court Confidential Case Information; and ii) Court Confidential Security and Activation Information.

d. **“DCA”** shall mean the district courts of the state of Minnesota and their respective staff.

e. **“Policies & Notices”** means the policies and notices published by the Court in connection with each of its Court Data Services, on a website or other location designated by the Court, as the same may be amended from time to time by the Court. Policies & Notices for each Authorized Court Data Service identified in an approved request form under section 3, below, are hereby made part of this Subscriber Amendment by this reference and provide additional terms and conditions that govern Subscriber’s use of Court Records accessed through such services, including but not limited to provisions on access and use limitations.

f. **“Rules of Public Access”** means the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court, as the same may be amended from time to time, including without limitation lists or tables published from time to time by the Court entitled *Limits on Public Access to Case Records or Limits on Public Access to Administrative Records*, all of which by this reference are made a part of this Subscriber Amendment. It is the obligation of Subscriber to check from time to time for updated rules, lists, and tables and be familiar with the contents thereof. It is contemplated that such rules, lists, and tables will be posted on the Minnesota Judicial Branch website, for which the current address is [www.courts.state.mn.us](http://www.courts.state.mn.us).

g. **“Court”** shall mean the State of Minnesota, State Court Administrator's Office.

h. **“Subscriber”** shall mean the Agency.

i. **“Subscriber Records”** means any information in any form made available by the Subscriber to the Court for the purposes of carrying out this Subscriber Amendment.

**3. REQUESTS FOR AUTHORIZED COURT DATA SERVICES.** Following execution of this Amendment by all parties, Subscriber may submit to the BCA one or more separate requests for Authorized Court Data Services. The BCA is authorized in the Master Authorization Agreement to process, credential and approve such requests on behalf of Court and all such requests approved by the BCA are adopted and incorporated herein by this reference the same as if set forth verbatim herein.

a. **Activation.** Activation of the requested Authorized Court Data Service(s) shall occur promptly following approval.

b. **Rejection.** Requests may be rejected for any reason, at the discretion of the BCA and/or the Court.

c. **Requests for Termination of One or More Authorized Court Data Services.** The Subscriber may request the termination of an Authorized Court Data Services previously requested by submitting a notice to Court with a copy to the BCA. Promptly upon receipt of a request for termination of a Authorized Court Data Service, the BCA will deactivate the service requested. The termination of one or more Authorized Court Data Services does not terminate this Subscriber Amendment. Provisions for termination of this Subscriber Amendment are set forth in section 1. Upon termination of Authorized Court Data Services, the Subscriber shall perform the responsibilities set forth in paragraph 7(f) hereof.

**4. SCOPE OF ACCESS TO COURT RECORDS LIMITED.** Subscriber's access to and/or submission of the Court Records shall be limited to Authorized Court Data Services identified in an approved request form under section 3, above, and other Court Records necessary for Subscriber to use Authorized Court Data Services. Authorized Court Data Services shall only be used according to the instructions provided in corresponding Policies & Notices or

other materials and only as necessary to assist Subscriber in the efficient performance of Subscriber's duties required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body. Subscriber's access to the Court Records for personal or non-official use is prohibited. Subscriber will not use or attempt to use Authorized Court Data Services in any manner not set forth in this Subscriber Amendment, Policies & Notices, or other Authorized Court Data Services documentation, and upon any such unauthorized use or attempted use the Court may immediately terminate this Subscriber Amendment without prior notice to Subscriber.

**5. GUARANTEES OF CONFIDENTIALITY.** Subscriber agrees:

a. To not disclose Court Confidential Information to any third party except where necessary to carry out the Subscriber's duties as required or authorized by law or court rule in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body.

b. To take all appropriate action, whether by instruction, agreement, or otherwise, to insure the protection, confidentiality and security of Court Confidential Information and to satisfy Subscriber's obligations under this Subscriber Amendment.

c. To limit the use of and access to Court Confidential Information to Subscriber's bona fide personnel whose use or access is necessary to effect the purposes of this Subscriber Amendment, and to advise each individual who is permitted use of and/or access to any Court Confidential Information of the restrictions upon disclosure and use contained in this Subscriber Amendment, requiring each individual who is permitted use of and/or access to Court Confidential Information to acknowledge in writing that the individual has read and understands such restrictions. Subscriber shall keep such acknowledgements on file for one year following termination of the Subscriber Amendment and/or CJDN Subscriber Agreement, whichever is longer, and shall provide the Court with access to, and copies of, such acknowledgements upon request. For purposes of this Subscriber Amendment, Subscriber's bona fide personnel shall mean individuals who are employees of Subscriber or provide services to Subscriber either on a voluntary basis or as independent contractors with Subscriber.

d. That, without limiting section 1 of this Agreement, the obligations of Subscriber and its bona fide personnel with respect to the confidentiality and security of Court Confidential Information shall survive the termination of this Subscriber Amendment and the CJDN Subscriber Agreement and the termination of their relationship with Subscriber.

e. That, notwithstanding any federal or state law applicable to the nondisclosure obligations of Subscriber and Subscriber's bona fide personnel under this Subscriber Amendment, such obligations of Subscriber and Subscriber's bona fide personnel are founded independently on the provisions of this Subscriber Amendment.

**6. APPLICABILITY TO PREVIOUSLY DISCLOSED COURT RECORDS.** Subscriber acknowledges and agrees that all Authorized Court Data Services and related Court Records disclosed to Subscriber prior to the effective date of this Subscriber Amendment shall be subject to the provisions of this Subscriber Amendment.

**7. LICENSE AND PROTECTION OF PROPRIETARY RIGHTS.** During the term of this Subscriber Amendment, subject to the terms and conditions hereof, the Court hereby grants to Subscriber a nonexclusive, nontransferable, limited license to use Court Data Services Programs and Court Data Services Databases to access or receive the Authorized Court Data Services identified in an approved request form under section 3, above, and related Court Records. Court reserves the right to make modifications to the Authorized Court Data Services, Court Data Services Programs, and Court Data Services Databases, and related materials without notice to Subscriber. These modifications shall be treated in all respects as their previous counterparts.

**a. Court Data Services Programs.** Court is the copyright owner and licensor of the Court Data Services Programs. The combination of ideas, procedures, processes, systems, logic, coherence and methods of operation embodied within the Court Data Services Programs, and all information contained in documentation pertaining to the Court Data Services Programs, including but not limited to manuals, user documentation, and passwords, are trade secret information of Court and its licensors.

**b. Court Data Services Databases.** Court is the copyright owner and licensor of the Court Data Services Databases and of all copyrightable aspects and components thereof. All specifications and information pertaining to the Court Data Services Databases and their structure, sequence and organization, including without limitation data schemas such as the Court XML Schema, are trade secret information of Court and its licensors.

**c. Marks.** Subscriber shall neither have nor claim any right, title, or interest in or use of any trademark used in connection with Authorized Court Data Services, including but not limited to the marks "MNCIS" and "Odyssey."

**d. Restrictions on Duplication, Disclosure, and Use.** Trade secret information of Court and its licensors will be treated by Subscriber in the same manner as Court Confidential Information. In addition, Subscriber will not copy any part of the Court Data Services Programs or Court Data Services Databases, or reverse engineer or otherwise attempt to discern the source code of the Court Data Services Programs or Court Data Services Databases, or use any trademark of Court or its licensors, in any way or for any purpose not specifically and expressly authorized by this Subscriber Amendment. As used herein, "trade secret information of Court and its licensors" means any information possessed by Court which derives independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. "Trade secret information of Court and its licensors" does not, however, include information which was known to Subscriber prior to Subscriber's receipt thereof, either directly or indirectly, from Court or its licensors, information which is independently developed by Subscriber without reference to or use of information received from Court or its licensors, or information which would not qualify as a trade secret under Minnesota law. It will not be a violation of this section 7, sub-section d, for Subscriber to make up to one copy of training materials and configuration documentation, if any, for each individual authorized to access, use, or configure Authorized Court Data Services, solely for its own use in connection with this Subscriber Amendment. Subscriber will take all steps reasonably necessary to protect the copyright, trade secret, and trademark rights of Court and its

licensors and Subscriber will advise its bona fide personnel who are permitted access to any of the Court Data Services Programs and Court Data Services Databases, and trade secret information of Court and its licensors, of the restrictions upon duplication, disclosure and use contained in this Subscriber Amendment.

**e. Proprietary Notices.** Subscriber will not remove any copyright or proprietary notices included in and/or on the Court Data Services Programs or Court Data Services Databases, related documentation, or trade secret information of Court and its licensors, or any part thereof, made available by Court directly or through the BCA, if any, and Subscriber will include in and/or on any copy of the Court Data Services Programs or Court Data Services Databases, or trade secret information of Court and its licensors and any documents pertaining thereto, the same copyright and other proprietary notices as appear on the copies made available to Subscriber by Court directly or through the BCA, except that copyright notices shall be updated and other proprietary notices added as may be appropriate.

**f. Title; Return.** The Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration material, if any, and logon account information and passwords, if any, made available by the Court to Subscriber directly or through the BCA and all copies, including partial copies, thereof are and remain the property of the respective licensor. Except as expressly provided in section 12.b., within ten days of the effective date of termination of this Subscriber Amendment or the CJDN Subscriber Agreement or within ten days of a request for termination of Authorized Court Data Service as described in section 4, Subscriber shall either: (i) uninstall and return any and all copies of the applicable Court Data Services Programs and Court Data Services Databases, and related documentation, including but not limited to training and configuration materials, if any, and logon account information, if any; or (2) destroy the same and certify in writing to the Court that the same have been destroyed.

**8. INJUNCTIVE RELIEF.** Subscriber acknowledges that the Court, Court's licensors, and DCA will be irreparably harmed if Subscriber's obligations under this Subscriber Amendment are not specifically enforced and that the Court, Court's licensors, and DCA would not have an adequate remedy at law in the event of an actual or threatened violation by Subscriber of its obligations. Therefore, Subscriber agrees that the Court, Court's licensors, and DCA shall be entitled to an injunction or any appropriate decree of specific performance for any actual or threatened violations or breaches by Subscriber or its bona fide personnel without the necessity of the Court, Court's licensors, or DCA showing actual damages or that monetary damages would not afford an adequate remedy. Unless Subscriber is an office, officer, agency, department, division, or bureau of the state of Minnesota, Subscriber shall be liable to the Court, Court's licensors, and DCA for reasonable attorneys fees incurred by the Court, Court's licensors, and DCA in obtaining any relief pursuant to this Subscriber Amendment.

**9. LIABILITY.** Subscriber and the Court agree that, except as otherwise expressly provided herein, each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. Liability shall be governed by applicable law. Without limiting the foregoing, liability of the Court and any Subscriber that is an office, officer, agency, department, division, or bureau of the state of Minnesota shall be governed by the provisions of the Minnesota Tort Claims Act, Minnesota Statutes, section 3.376, and other applicable law. Without limiting the foregoing, if

Subscriber is a political subdivision of the state of Minnesota, liability of the Subscriber shall be governed by the provisions of Minn. Stat. Ch. 466 (Tort Liability, Political Subdivisions) or other applicable law. Subscriber and Court further acknowledge that the liability, if any, of the BCA is governed by a separate agreement between the Court and the BCA dated December 13, 2010 with DPS-M -0958.

**10. AVAILABILITY.** Specific terms of availability shall be established by the Court and communicated to Subscriber by the Court and/or the BCA. The Court reserves the right to terminate this Subscriber Amendment immediately and/or temporarily suspend Subscriber's Authorized Court Data Services in the event the capacity of any host computer system or legislative appropriation of funds is determined solely by the Court to be insufficient to meet the computer needs of the courts served by the host computer system.

**11.** [reserved]

**12. ADDITIONAL USER OBLIGATIONS.** The obligations of the Subscriber set forth in this section are in addition to the other obligations of the Subscriber set forth elsewhere in this Subscriber Amendment.

**a. Judicial Policy Statement.** Subscriber agrees to comply with all policies identified in Policies & Notices applicable to Court Records accessed by Subscriber using Authorized Court Data Services. Upon failure of the Subscriber to comply with such policies, the Court shall have the option of immediately suspending the Subscriber's Authorized Court Data Services on a temporary basis and/or immediately terminating this Subscriber Amendment.

**b. Access and Use; Log.** Subscriber shall be responsible for all access to and use of Authorized Court Data Services and Court Records by Subscriber's bona fide personnel or by means of Subscriber's equipment or passwords, whether or not Subscriber has knowledge of or authorizes such access and use. Subscriber shall also maintain a log identifying all persons to whom Subscriber has disclosed its Court Confidential Security and Activation Information, such as user ID(s) and password(s), including the date of such disclosure. Subscriber shall maintain such logs for a minimum period of six years from the date of disclosure, and shall provide the Court with access to, and copies of, such logs upon request. The Court may conduct audits of Subscriber's logs and use of Authorized Court Data Services and Court Records from time to time. Upon Subscriber's failure to maintain such logs, to maintain accurate logs, or to promptly provide access by the Court to such logs, the Court may terminate this Subscriber Amendment without prior notice to Subscriber.

**c. Personnel.** Subscriber agrees to investigate, at the request of the Court and/or the BCA, allegations of misconduct pertaining to Subscriber's bona fide personnel having access to or use of Authorized Court Data Services, Court Confidential Information, or trade secret information of the Court and its licensors where such persons are alleged to have violated the provisions of this Subscriber Amendment, Policies & Notices, Judicial Branch policies, or other security requirements or laws regulating access to the Court Records.

**d. Minnesota Data Practices Act Applicability.** If Subscriber is a Minnesota Government entity that is subject to the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, Subscriber acknowledges and agrees that: (1) the Court is not subject to Minn. Stat. Ch. 13 (see section 13.90) but is subject to the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court; (2) Minn. Stat. section 13.03, subdivision 4(e) requires that Subscriber comply with the Rules of Public Access and other rules promulgated by the Minnesota Supreme Court for access to Court Records provided via the BCA systems and tools under this Amendment; (3) the use of and access to Court Records may be restricted by rules promulgated by the Minnesota Supreme Court, applicable state statute or federal law; and (4) these applicable restrictions must be followed in the appropriate circumstances.

**13. FEES; INVOICES.** Unless the Subscriber is an office, officer, department, division, agency, or bureau of the state of Minnesota, Subscriber shall pay the fees, if any, set forth in applicable Policies & Notices, together with applicable sales, use or other taxes. Applicable monthly fees commence ten (10) days after notice of approval of the request pursuant to section 3 of this Amendment or upon the initial Subscriber transaction as defined in the Policies & Notices, whichever occurs earlier. When fees apply, the Court shall invoice Subscriber on a monthly basis for charges incurred in the preceding month and applicable taxes, if any, and payment of all amounts shall be due upon receipt of invoice. If all amounts are not paid within 30 days of the date of the invoice, the Court may immediately cancel this Amendment without notice to Subscriber and pursue all available legal remedies. Subscriber certifies that funds have been appropriated for the payment of charges under this Amendment for the current fiscal year, if applicable.

**14. MODIFICATION OF FEES.** Court may modify the fees by amending the Policies & Notices as provided herein, and the modified fees shall be effective on the date specified in the Policies & Notices, which shall not be less than thirty days from the publication of the Policies & Notices. Subscriber shall have the option of accepting such changes or terminating this Amendment as provided in section 1 hereof.

**15. WARRANTY DISCLAIMERS.**

**a. WARRANTY EXCLUSIONS.** EXCEPT AS SPECIFICALLY AND EXPRESSLY PROVIDED HEREIN, COURT, COURT'S LICENSORS, AND DCA MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, NOR ARE ANY WARRANTIES TO BE IMPLIED, WITH RESPECT TO THE INFORMATION, SERVICES OR COMPUTER PROGRAMS MADE AVAILABLE UNDER THIS AGREEMENT.

**b. ACCURACY AND COMPLETENESS OF INFORMATION.** WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, COURT, COURT'S LICENSORS, AND DCA MAKE NO WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED IN THE COURT RECORDS.

**16. RELATIONSHIP OF THE PARTIES.** Subscriber is an independent contractor and shall not be deemed for any purpose to be an employee, partner, agent or franchisee of the Court, Court's licensors, or DCA. Neither Subscriber nor the Court, Court's licensors, or DCA shall have the right nor the authority to assume, create or incur any liability or obligation of any kind, express or implied, against or in the name of or on behalf of the other.

**17. NOTICE.** Except as provided in section 2 regarding notices of or modifications to Authorized Court Data Services and Policies & Notices, any notice to Court or Subscriber hereunder shall be deemed to have been received when personally delivered in writing or seventy-two (72) hours after it has been deposited in the United States mail, first class, proper postage prepaid, addressed to the party to whom it is intended at the address set forth on page one of this Agreement or at such other address of which notice has been given in accordance herewith.

**18. NON-WAIVER.** The failure by any party at any time to enforce any of the provisions of this Subscriber Amendment or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, remedy or option or in any way affect the validity of this Subscriber Amendment. The waiver of any default by either Party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

**19. FORCE MAJEURE.** Neither Subscriber nor Court shall be responsible for failure or delay in the performance of their respective obligations hereunder caused by acts beyond their reasonable control.

**20. SEVERABILITY.** Every provision of this subscriber Amendment shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Subscriber Amendment so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Subscriber Amendment, and all other provisions shall remain in full force and effect.

**21. ASSIGNMENT AND BINDING EFFECT.** Except as otherwise expressly permitted herein, neither Subscriber nor Court may assign, delegate and/or otherwise transfer this Subscriber Amendment or any of its rights or obligations hereunder without the prior written consent of the other. This Subscriber Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns, including any other legal entity into, by or with which Subscriber may be merged, acquired or consolidated.

**22. GOVERNING LAW.** This Subscriber Amendment shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws of the United States and of the State of Minnesota.

**23. VENUE AND JURISDICTION.** Any action arising out of or relating to this Subscriber Amendment, its performance, enforcement or breach will be venued in a state or federal court situated within the State of Minnesota. Subscriber hereby irrevocably consents and submits itself to the personal jurisdiction of said courts for that purpose.

**24. INTEGRATION.** This Subscriber Amendment contains all negotiations and agreements between the parties. No other understanding regarding this Subscriber Amendment, whether written or oral, may be used to bind either party, provided that all terms and conditions

of the CJDN Subscriber Agreement and all previous amendments remain in full force and effect except as supplemented or modified by this Subscriber Amendment.

IN WITNESS WHEREOF, the Parties have, by their duly authorized officers, executed this Subscriber Amendment in duplicate, intending to be bound thereby.

**1. STATE ENCUMBRANCE VERIFICATION**  
*Individual certifies that funds have been encumbered as required by Minn. Stat. §§ 16A.15 and 16C.05.*

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

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

SWIFT Contract No. \_\_\_\_\_

**2. SUBSCRIBER (AGENCY)**

Subscriber must attach written verification of authority to sign on behalf of and bind the entity, such as an opinion of counsel or resolution.

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**3. DEPARTMENT OF PUBLIC SAFETY, BUREAU OF CRIMINAL APPREHENSION**

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with delegated authority)

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

**4. COMMISSIONER OF ADMINISTRATION**  
delegated to Materials Management Division

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

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

**5. COURTS**  
Authority granted to Bureau of Criminal Apprehension

Name: \_\_\_\_\_  
(PRINTED)

Signed: \_\_\_\_\_

Title: \_\_\_\_\_  
(with authorized authority)

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

**RESOLUTION 2013-03**

**CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION AUTHORIZING THE RAMSEY WASHINGTON SUBURBAN  
CABLE COMMISSION TO BROADCAST AND RE-BROADCAST CITY  
COUNCIL MEETINGS ON OTHER CABLE CHANNELS**

**WHEREAS**, all Regular and most Special meetings of the Birchwood Village City Council are broadcast on the City’s public access channel through the Ramsey Washington Suburban Cable Commission (RWSCC); and

**WHEREAS**, RWSCC desires to have the authority to broadcast and re-broadcast these meeting on other cable channels of a public service nature including, but not limited to, On-Demand or a “C-SPAN” type of channel; and

**WHEREAS**, RWSCC is requesting permission from the City Council of the City of Birchwood Village for said broadcasting and re-broadcasting of Birchwood Village City Council meetings; and

**WHEREAS**, the City Council agrees that providing alternative venues and channels for residents to view City Council meetings is desirable and appropriate.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of the City of Birchwood Village that it grants permission to the Ramsey Washington Suburban Cable Commission to broadcast and/or rebroadcast on other public-service, non-commercial cable channels any Council meeting that it originally broadcast live on the City’s public access channel.

I certify that the City of Birchwood Village adopted the above Resolution on this 8th day of January, 2013.

\_\_\_\_\_  
Mary Wingfield, Mayor

ATTEST:

\_\_\_\_\_  
Dale Powers  
City Coordinator

**RESOLUTION 2013-04  
CITY OF BIRCHWOOD VILLAGE  
WASHINGTON COUNTY, MINNESOTA**

**A RESOLUTION NAMING U. S. BANK, N. A. AND THE MINNESOTA MUNICIPAL MONEY MARKET FUND (A/K/A "4M FUND") AS THE OFFICIAL DEPOSITORIES OF MUNICIPAL FUNDS**

**SECTION 1.** RESOLVED, that U. S. Bank, N. A. and the Minnesota Municipal Money Market Fund (a/k/a "4M Fund") are hereby designated as depositories for the funds of the City of Birchwood Village. The City Treasurer is authorized to deposit city funds therein.

**SECTION 2.** RESOLVED ALSO, that before any deposits are made that exceed the amount that is guaranteed by the Federal Deposit Insurance Corporation (FDIC), the depository must supply to the City a corporate surety bond in the amount of at least 10 percent more than the amount on deposit at the depository's cutoff hour. The bond is subject to the approval of the City Council. The surety bond must be conditioned to repay the above amount or any part thereof upon proper demand therefore and to perform such other duties in connection with the deposit as the council may require.

**SECTION 3.** RESOLVED FURTHER, that, in lieu of the above bond, the depository may furnish collateral in the manner and to the extent permitted by law. All such collateral must be approved by the City Council and accompanied by a written assignment providing that, upon default, the financial institution shall release to the City on demand, free of exchange or any other charges, the collateral pledged.

**SECTION 4.** RESOLVED FURTHER, all collateral must be placed in safekeeping in a restricted account at either a Federal Reserve Bank or in an account at a trust department of a commercial bank or other financial institution that is not owned or controlled by the financial institution that is furnishing the collateral. The selection must be approved by the City Council. In case of default upon the part of the depository, the City Council shall have full power and authority to sell such collateral or as much as may be necessary to realize the full amount due the city over such federal guarantee.

This designation is effective until subsequently rescinded by the Birchwood Village City Council.

I certify that the City of Birchwood Village adopted the above Resolution on this 8th day of January, 2013.

\_\_\_\_\_  
Mary Wingfield, Mayor

ATTEST:

\_\_\_\_\_  
Dale Powers  
City Coordinator

Birchwood Village  
Treasurer's Report  
1-3-2012  
Council Meeting 1/8/2012

To: City Council  
From: Cindie J Reiter, Treasurer *CJR*

**Financial Report**

*Attached are the CTAS reports:*

The **DISBURSEMENTS REGISTER** is for those claims presented for approval and/or payment this eve. Disbursement Register includes check numbers or EFT identifier. **THE DISBURSEMENT REGISTER INCLUDED IS FOR December 2012 EXPENSES.** Checks issued were are #27570 – 27607 (27591 is VOIDed print error) and EFTs for Xcel Sewer LIFT, US Bank Service Charge (SC), PERA, FED and MN payroll taxes. Year End Transfers are indicated by TRNS on the disbursement register. 2012 financial data has not been rolled (closed out) to 2013 as of this date. City 2012 Financial Statements & reports are due to the State Auditor by March 31, 2013.

The **Interim Financial Report** shows the year to date totals for each revenue and expense of each Fund. The report is presented by ACCOUNT code. Fund 100 is the operating fund (General Fund) for which property taxes are levied, and also includes other revenues the city receives. In the disbursement section of this report you will find a running total (YTD) and variance (remaining balance) of the full year budgeted amount for each category of expense. **THE INTERIM FINANCIAL REPORT INCLUDED IS THRU DECEMBER 31, 2012.**

The **Cash Balance Statement** is the beginning balances (same as: prior year-end). The beginning balances are all cash balances – which reside at 4M Fund /US Bank (checking for operating funds, savings, enterprise fund accounts for various fund reserves)

**Current Items of Interest-**

- Election payroll - 2 judges still need to sign timesheets (this will be an accounts payable for 2012 paid in 2013).
- Council 2012 payroll to be issued in 2013 (partial term).
- **2013 invoices received** for payment to Mini-mobile \$267.03 , Grainger Hoses \$466.65 , & WB Press \$176.88 (as of this date) will be presented for payment at Jan. 8, 2013 meeting. Lift Stn Electric, Parks & Admin Staff payroll PE 12/31, PERA, MN W/H & IRS W/H– due 1/15/2013.

Please call/email with any questions.

*Cindie J Reiter.*  
Birchwood City Treasurer

Fund Name: All Funds  
Date Range: 12/12/2012 to 12/31/2012

<u>Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
12/12/2012	TSE, INC	City Hall Janitorial 11/20/2012	27570	\$19.00	100-41940-305	\$19.00
12/12/2012	Waste Management of WI-MN	Recycle - Nov 2012	27571	\$957.72	100-44100-305	\$957.72
12/12/2012	Xcel Energy	Street Lights Dec 2012	27572	\$1,199.92	100-43160-381	\$1,199.92
12/12/2012	Eckberg, Lammers, Briggs, Wolff	Legal Service -Nov 2012	27573	\$172.50	100-41600-300	\$172.50
12/12/2012	Ronnan, Kenny	Videographer & Slide-Service Nov 2012 (4.0)	27577			VOID
12/12/2012	Ronnan, Kenny	Videographer & Slide-Service Nov 2012 (4.0)	27578	\$90.00	100-41950-305	\$90.00
12/14/2012	Payroll Period Ending 11/30/2012		27574	\$45.28	100-45200-100	\$45.28
12/14/2012	Payroll Period Ending 11/30/2012		27575	\$1,067.78	100-41400-100	\$1,067.78
12/14/2012	Payroll Period Ending 11/30/2012		27576	\$418.37	100-41400-100	\$418.37
12/17/2012	U S Bank	Service Charge - Dec 2012	SC122012	\$31.95	100-41500-430	\$31.95
12/18/2012	Qwest/CenturyLink	Phone/Fax lines Dec 2012	27579	\$127.71	100-41940-321	\$127.71
12/18/2012	Simpson, Jerald	Refund - Zoning app fee	27580	\$206.00	100-41910-810	\$206.00
12/18/2012	Krinke, Bea	Parks - Per diem 2012	27581	\$60.00	100-41800-180	\$60.00
12/18/2012	On-Site Sanitation Inc	Rental Unit -TS Pk Dec 2012	27582	\$86.95	100-45200-305	\$86.95
12/18/2012	City of White Bear Lake Bldg Inspec	Bldg Inspections -Nov 2012	27583	\$262.00	100-42401-305	\$262.00
12/18/2012	St. Anthony Village	UB Fee & Set up Chg/supplies Qtr 4 2012	27584	\$1,861.58	601-43180-200	\$67.49
					601-43180-305	\$863.30
					605-43190-200	\$67.49
					605-43190-305	\$863.30
12/18/2012	City of White Bear Lake Public Work	Lift Stn Mntnc Service Nov 2012	27585	\$826.75	605-43190-305	\$826.75
12/18/2012	Xcel Energy	Ice Rink Dec 2012	27586	\$77.89	100-45200-381	\$77.89
12/18/2012	Xcel Energy	City hall Gas/Electric Dec 2012	27587	\$287.70	100-45200-380	\$287.70
12/18/2012	Menards - Maplewood	Rink Repair Supplies (wood)	27588	\$27.99	100-45200-220	\$27.99
12/18/2012	Menards - Maplewood	Rink Repair Supplies (treated wood)	27589	\$37.82	100-45200-220	\$37.82
12/18/2012	Anderson, Alice	Election Judge Pay 2012	27590	\$245.00	100-41410-100	\$245.00
12/18/2012	Xcel Energy	Lift Stn Electric Dec 2012	LIFT122012	\$346.86	605-43190-381	\$346.86

## City of Birchwood Village

## Disbursements Register

01/03/2013

<u>Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
12/18/2012	PERA	Staff Retirement PE 11/30/2012	PERA121512	\$270.87	100-41400-120	\$145.46
					100-41400-121	\$125.41
12/27/2012	Danks, Debbie	Election Judge Wages - 2012	27594	\$110.00	100-41410-100	\$110.00
12/27/2012	Husnik, Don	Election Judge Wages - 2012	27595	\$180.00	100-41410-100	\$180.00
12/27/2012	Hauser, Mary	Election Judge Wages - 2012	27596	\$202.50	100-41410-100	\$202.50
12/27/2012	Menards - Maplewood	Ice Melt	27597	\$16.98	100-45200-210	\$16.98
12/27/2012	Payroll Period Ending 12/27/2012		27598	\$94.35	100-41310-100	\$94.35
12/31/2012	Payroll Period Ending 12/15/2012		27592	\$1,067.78	100-41400-100	\$1,067.78
12/31/2012	Payroll Period Ending 12/15/2012		27593	\$525.92	100-41400-100	\$525.92
12/31/2012	Ronnan, Kenny	Videographer & Slide- Service Decv 2012 (5.5)	27599	\$123.75	100-41950-305	\$123.75
12/31/2012	Press Publications	CCVacancy Ntc/ Spec Mtg/ Ord 2012-11 & 2012-12	27600	\$573.08	100-41130-351	\$70.75
					100-41130-351	\$42.45
					100-41130-351	\$176.88
					100-41130-351	\$283.00
12/31/2012	Ken Johnson	Plow & Sand Streets 129-12/16/12	27601	\$2,673.00	100-43125-305	\$2,673.00
12/31/2012	Washington County	Salt/Sand 11/29/12	27602	\$563.39	100-43125-305	\$563.39
12/31/2012	S&T Office Supplies	Paper/Stapler/Stamper	27603	\$279.13	100-41420-200	\$279.13
12/31/2012	S&T Office Supplies	Cartridges/Binders/Pen s	27604	\$296.71	100-41420-200	\$296.71
12/31/2012	S&T Office Supplies	Cartridges	27605	\$76.69	100-41420-200	\$76.69
12/31/2012	TSE, INC	City Hall Janitorial 12/04/2012	27606	\$19.00	100-41940-305	\$19.00
12/31/2012	Washington County Historical Societ	Donation Request for Heritage Center	27607	\$1,000.00	100-41905-435	\$1,000.00
12/31/2012	Tree CAnopy Care #110	Designate 2012 unspent \$ to Canopy Care #110	TRNS2-110	\$8,350.00	100-49360-720	\$8,350.00
12/31/2012	Parks Specia	Trans unspent Park funds to Spec Rev Fund #210	TRNS2-210	\$1,510.33	100-49360-720	\$1,510.33
12/31/2012	Debt Service Fund #301	Transfer offset from Sewer to Debt Srvc #301	TRNS2-301	\$22,392.49	605-49360-720	\$22,392.49
12/31/2012	Debt Service Fund #305	Transfer offset from Sewer #605 to Debt Srvc Fund #305	TRNS2-305	\$10,740.71	605-49360-720	\$10,740.71
12/31/2012	Sewer Fund #605	Transfer bal. from Debt Srvc#303	TRNS2-605	\$490.44	303-49360-720	\$490.44
12/31/2012	CAPital Projects - PW	Transfer #100 St Sign budget to #401	TRNS2CP	\$3,000.00	100-49360-720	\$3,000.00

City of Birchwood Village

Disbursements Register

01/03/2013

<u>Date</u>	<u>Vendor Name</u>	<u>Description</u>	<u>Check #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
12/31/2012	SEWER Fund #605	Transfer from GF #100 to maintain required balance	TRNSFR-605	\$5,389.70	100-49360-720	\$5,389.70
<b>Total For Period</b>				<b>\$68,403.59</b>		
<b>Total Year To Date</b>				<b>\$611,017.48</b>		

Fund Name: All Funds  
Date Range: 12/12/2012 to 12/31/2012

<u>Date</u>	<u>Remitter</u>	<u>Description</u>	<u>Receipt #</u>	<u>Total</u>	<u>Account #</u>	<u>Amount</u>
12/12/2012	Residents - via St Anthony	Utility Billing - receipted at SAV	861	\$1,797.00	601-34110	\$933.10
					601-34160	\$6.98
					601-34170	\$20.67
					605-34190	\$836.25
12/14/2012	Residents - via St Anthony	Utility Billing - received at SAV	862	\$4,547.39	601-34110	\$2,726.05
					601-34160	\$28.53
					601-34170	\$43.06
					605-34190	\$1,749.75
12/17/2012	Residents - via St Anthony	Utility Billing - SAV receipts	863	\$4,459.60	601-34110	\$2,115.35
					601-34160	\$17.24
					601-34170	\$62.01
					605-34190	\$2,265.00
12/19/2012	Residents - via St Anthony	Utility Billing - SAV receipts	864	\$1,256.69	601-34110	\$591.02
					601-34160	\$20.67
					605-34190	\$645.00
12/20/2012	Residents - via St Anthony	Utility Billing - SAV receipts	865	\$1,117.71	601-34110	\$616.94
					601-34160	\$15.62
					601-34170	\$15.90
					605-34190	\$469.25
12/21/2012	Residents - via St anthony	Utility Billing - SAV receipts	866	\$603.19	601-34110	\$222.40
					601-34170	\$9.54
					605-34190	\$371.25
12/31/2012	Lien, Michael	Bldg Permit #WB056294	853	\$20.15	100-32210	\$20.15
12/31/2012	WS & D Permit Service	Bldg Permit #WB056329	854	\$84.29	100-32210	\$84.29
12/31/2012	Felt, R&J	Boat Lift Storage Fee 2012	855	\$100.00	210-32260	\$100.00
12/31/2012	Arlandson, J & M	BoatLift Storage Fee 2012	856	\$100.00	210-32260	\$100.00
12/31/2012	Winters, John	Return PC per diem	857	\$95.00	100-36230	\$95.00
12/31/2012	LMC	P/C Dividend 2011/2012	858	\$2,118.00	100-36240	\$2,118.00
12/31/2012	General Fund - Street Signs	Transfer received form GF per CC	867	\$3,000.00	401-39200	\$3,000.00
12/31/2012	Gen Fund - Parks operations	Trans from #100 to Fund #210 Parks Spec	868	\$1,510.33	210-39200	\$1,510.33
12/31/2012	Gen Fund #100 - unspent	Allocate for Canopy Care	869	\$8,350.00	110-39200	\$8,350.00
12/31/2012	Sewer Fund #605	Offset Neg balance in Debt Svc #301	870	\$22,392.49	301-39200	\$22,392.49
12/31/2012	Sewer Fund #605	Transfer neg bal debt Svc#305	871	\$10,740.71	305-39200	\$10,740.71
12/31/2012	Debt Service Fund #303	Transfer pos. balance to Sewer #605	873	\$490.44	605-39200	\$490.44
12/31/2012	GENERAL Fund #100	Amt needed to maintain Sewer Fund Balance	874	\$5,389.70	605-39200	\$5,389.70

**Total For Period**

**\$68,172.69**

Total Year To Date

\$568,769.78

As of 01/03/2013

Fiscal Year:2012

<u>Name of Fund</u>	<u>Beginning Balance</u>	<u>Total Receipts</u>	<u>Total Disbursements</u>	<u>Ending Balance</u>
General Fund	\$513,015.66	\$341,542.14	\$328,126.96	\$526,430.84
Tree Canopy Care	\$0.00	\$8,350.00	\$0.00	\$8,350.00
Special Rev Projects	\$11,481.67	\$6,445.33	\$4,170.09	\$13,756.91
Spec Project-Elm Easement	\$0.00	\$0.00	\$0.00	\$0.00
Sewer 2004 Bonds	\$0.00	\$30,952.96	\$30,952.96	\$0.00
Birchwood In Re-hab Bond	\$0.00	\$655.65	\$655.65	\$0.00
Sewer Re-hab 2008 Debt	\$0.00	\$28,947.65	\$28,947.65	\$0.00
Cap Project - PW	\$41,571.00	\$3,000.00	\$0.00	\$44,571.00
Capital Projects	\$59,527.99	\$0.00	\$940.00	\$58,587.99
Cap Proj - Catchbasin	\$0.00	\$0.00	\$0.00	\$0.00
Water Enterprise Fund	\$35,730.61	\$64,913.86	\$73,557.93	\$27,086.54
Sewer Enterprise Fund	\$174,704.05	\$83,962.19	\$143,666.24	\$115,000.00
<b>Total</b>	<b>\$836,030.98</b>	<b>\$568,769.78</b>	<b>\$611,017.48</b>	<b>\$793,783.28</b>

As of 12/31/2012

## General Fund

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
General Property Taxes	\$325,000.00	\$320,067.04	(\$4,932.96)
Total Acct 310	\$325,000.00	\$320,067.04	(\$4,932.96)
Business Licenses and Permits	\$100.00	\$0.00	(\$100.00)
Total Acct 321	\$100.00	\$0.00	(\$100.00)
Building Permits	\$8,500.00	\$7,792.10	(\$707.90)
Dog Licenses	\$1,000.00	\$617.00	(\$383.00)
Zoning App Fee	\$0.00	\$412.00	\$412.00
Total Acct 322	\$9,500.00	\$8,821.10	(\$678.90)
State Grants and Aids	\$238.00	\$119.00	(\$119.00)
Total Acct 334	\$238.00	\$119.00	(\$119.00)
Recycle Grant	\$1,650.00	\$1,678.00	\$28.00
Cable Comm. Grant	\$7,000.00	\$6,495.79	(\$504.21)
Total Acct 336	\$8,650.00	\$8,173.79	(\$476.21)
City Hall and Garage Rent	\$500.00	\$374.50	(\$125.50)
Total Acct 341	\$500.00	\$374.50	(\$125.50)
Fines	\$1,000.00	\$453.31	(\$546.69)
Total Acct 351	\$1,000.00	\$453.31	(\$546.69)
Delinqnt Utilities - Garb/CEC	\$0.00	\$248.05	\$248.05
Miscellaneous	\$500.00	\$61.85	(\$438.15)
Total Acct 361	\$500.00	\$309.90	(\$190.10)
Interest Earnings	\$1,000.00	\$30.40	(\$969.60)
Contrib. and Donations-Private	\$400.00	\$765.00	\$365.00
Refunds and Reimbursements	\$0.00	\$2,428.10	\$2,428.10
Total Acct 362	\$1,400.00	\$3,223.50	\$1,823.50
<b>Total Revenues</b>	<b>\$346,888.00</b>	<b>\$341,542.14</b>	<b>(\$5,345.86)</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Publishing	\$2,175.00	\$4,313.11	(\$2,138.11)
Total Acct 411	\$2,175.00	\$4,313.11	(\$2,138.11)
City Council	\$2,700.00	\$2,442.08	\$257.92
Total Acct 413	\$2,700.00	\$2,442.08	\$257.92
Clerk - Treasurer	\$56,000.00	\$56,260.20	(\$260.20)
Elections	\$4,400.00	\$5,063.86	(\$663.86)
Office Operations/Supplies	\$4,275.00	\$3,314.48	\$960.52
Postage/Postal Permits	\$800.00	\$925.58	(\$125.58)
Total Acct 414	\$65,475.00	\$65,564.12	(\$89.12)
Financial Administration	\$400.00	\$349.94	\$50.06

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

Assessing	\$5,325.00	\$5,436.23	(\$111.23)
Total Acct 415	\$5,725.00	\$5,786.17	(\$61.17)
Legal Services	\$8,000.00	\$6,679.28	\$1,320.72
Engineer Service	\$6,000.00	\$6,223.43	(\$223.43)
Total Acct 416	\$14,000.00	\$12,902.71	\$1,097.29
Per Diem	\$1,560.00	\$985.00	\$575.00
Total Acct 418	\$1,560.00	\$985.00	\$575.00
Grants	\$0.00	\$1,000.00	(\$1,000.00)
Planning and Zoning	\$0.00	\$206.00	(\$206.00)
City Training and Development	\$5,000.00	\$3,189.00	\$1,811.00
City Hall-Gov't Buildings	\$9,300.00	\$6,814.03	\$2,485.97
City Insurance	\$10,524.00	\$10,258.00	\$266.00
Cable Eqpmt and Service	\$1,200.00	\$838.50	\$361.50
Newsletter	\$400.00	\$228.45	\$171.55
Total Acct 419	\$26,424.00	\$22,533.98	\$3,890.02
Police	\$90,935.00	\$89,776.00	\$1,159.00
Total Acct 421	\$90,935.00	\$89,776.00	\$1,159.00
Fire	\$20,500.00	\$21,317.00	(\$817.00)
Total Acct 422	\$20,500.00	\$21,317.00	(\$817.00)
Building Inspection	\$9,400.00	\$9,726.61	(\$326.61)
Total Acct 424	\$9,400.00	\$9,726.61	(\$326.61)
Other Protection	\$68.00	\$241.13	(\$173.13)
Animal Control	\$925.00	\$882.00	\$43.00
Total Acct 428	\$993.00	\$1,123.13	(\$130.13)
Streets and Road Mntnc	\$7,000.00	\$3,048.72	\$3,951.28
Street Sweeping	\$4,000.00	\$3,785.00	\$215.00
Ice and Snow Removal	\$15,300.00	\$8,591.18	\$6,708.82
Tree Care/Inspection	\$800.00	\$711.28	\$88.72
Tree Removal	\$2,550.00	\$2,393.19	\$156.81
Weed Control	\$1,700.00	\$927.00	\$773.00
Utility - Drain Structure Care	\$1,400.00	\$0.00	\$1,400.00
Street Signs	\$3,000.00	\$0.00	\$3,000.00
Street Lights	\$15,000.00	\$14,001.60	\$998.40
Wtr/Swr Emergency	\$1,000.00	\$0.00	\$1,000.00
Survey - Public Property	\$2,500.00	\$4,123.50	(\$1,623.50)
Total Acct 431	\$54,250.00	\$37,581.47	\$16,668.53
Sanitation - Recycling	\$12,700.00	\$11,388.54	\$1,311.46
Total Acct 441	\$12,700.00	\$11,388.54	\$1,311.46
Lawn Care/Mntnc	\$6,000.00	\$4,900.00	\$1,100.00
Total Acct 450	\$6,000.00	\$4,900.00	\$1,100.00
Recreation	\$2,000.00	\$2,350.00	(\$350.00)
Total Acct 451	\$2,000.00	\$2,350.00	(\$350.00)
Parks	\$13,000.00	\$11,489.67	\$1,510.33
Total Acct 452	\$13,000.00	\$11,489.67	\$1,510.33
CONSERVATION - NATURAL RESOURC	\$5,700.00	\$5,697.34	\$2.66
Total Acct 461	\$5,700.00	\$5,697.34	\$2.66
Unallocated Expenditures	\$8,351.00	\$0.00	\$8,351.00

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

Total Acct 492	\$8,351.00	\$0.00	\$8,351.00
<b>Total Disbursements</b>	<b>\$341,888.00</b>	<b>\$309,876.93</b>	<b>\$32,011.07</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$18,250.03	
<b>Beginning Cash Balance</b>		<b>\$513,015.66</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$526,430.84</b>	

As of 12/31/2012

Tree Canopy Care

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$8,350.00	
Disbursements:			
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$0.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$8,350.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

Special Rev Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Dock/Lift Permit Fee	\$0.00	\$4,935.00	\$4,935.00
Total Acct 322	\$0.00	\$4,935.00	\$4,935.00
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$4,935.00</b>	<b>\$4,935.00</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$1,510.33	
Disbursements:			
Parks	\$5,000.00	\$4,170.09	\$829.91
Total Acct 452	\$5,000.00	\$4,170.09	\$829.91
<b>Total Disbursements</b>	<b>\$5,000.00</b>	<b>\$4,170.09</b>	<b>\$829.91</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$11,481.67</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$13,756.91</b>	

As of 12/31/2012

**Spec Project-Elm Easement**

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$0.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$0.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

**Sewer 2004 Bonds**

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Sewer Re-hab A&B	\$0.00	\$8,560.47	\$8,560.47
Total Acct 361	\$0.00	\$8,560.47	\$8,560.47
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$8,560.47</b>	<b>\$8,560.47</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$22,392.49	
Disbursements:			
Bond Payment	\$0.00	\$29,768.00	(\$29,768.00)
Total Acct 471	\$0.00	\$29,768.00	(\$29,768.00)
Unallocated Expenditures	\$0.00	\$1,184.96	(\$1,184.96)
Total Acct 492	\$0.00	\$1,184.96	(\$1,184.96)
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$30,952.96</b>	<b>(\$30,952.96)</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$0.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$0.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

**Birchwood In Re-hab Bond**

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Sewer Re-hab A&B	\$0.00	\$655.65	\$655.65
Total Acct 361	\$0.00	\$655.65	\$655.65
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$655.65</b>	<b>\$655.65</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Unallocated Expenditures	\$0.00	\$165.21	(\$165.21)
Total Acct 492	\$0.00	\$165.21	(\$165.21)
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$165.21</b>	<b>(\$165.21)</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$490.44	
<b>Beginning Cash Balance</b>		<b>\$0.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$0.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

Sewer Re-hab 2008 Debt

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Sewer Re-hab A&B	\$0.00	\$18,206.94	\$18,206.94
Total Acct 361	\$0.00	\$18,206.94	\$18,206.94
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$18,206.94</b>	<b>\$18,206.94</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$10,740.71	
Disbursements:			
Bond Payment	\$0.00	\$25,175.30	(\$25,175.30)
Total Acct 471	\$0.00	\$25,175.30	(\$25,175.30)
Unallocated Expenditures	\$0.00	\$3,772.35	(\$3,772.35)
Total Acct 492	\$0.00	\$3,772.35	(\$3,772.35)
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$28,947.65</b>	<b>(\$28,947.65)</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$0.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$0.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

Cap Project - PW

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$3,000.00	
Disbursements:			
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$41,571.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$44,571.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

Capital Projects

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
City Hall-Gov't Buildings	\$15,000.00	\$940.00	\$14,060.00
Total Acct 419	\$15,000.00	\$940.00	\$14,060.00
<b>Total Disbursements</b>	<b>\$15,000.00</b>	<b>\$940.00</b>	<b>\$14,060.00</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$59,527.99</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$58,587.99</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

Cap Proj - Catchbasin

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
<b>Total Disbursements</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$0.00</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$0.00</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

**Water Enterprise Fund**

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Water Fee	\$0.00	\$57,883.20	\$57,883.20
Penalty - Late Water/Sewer	\$0.00	\$1,442.18	\$1,442.18
State and Misc fees	\$0.00	\$1,959.98	\$1,959.98
Sewer Fee	\$0.00	\$34.36	\$34.36
Total Acct 341	\$0.00	\$61,319.72	\$61,319.72
DELQ - Water-Sewer fees	\$0.00	\$3,591.49	\$3,591.49
Total Acct 361	\$0.00	\$3,591.49	\$3,591.49
Interest Earnings	\$0.00	\$2.65	\$2.65
Total Acct 362	\$0.00	\$2.65	\$2.65
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$64,913.86</b>	<b>\$64,913.86</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$0.00	
Disbursements:			
Postage/Postal Permits	\$0.00	\$100.00	(\$100.00)
Total Acct 414	\$0.00	\$100.00	(\$100.00)
Legal Services	\$0.00	\$981.45	(\$981.45)
Engineer Service	\$0.00	\$1,425.00	(\$1,425.00)
Total Acct 416	\$0.00	\$2,406.45	(\$2,406.45)
Utility Locates	\$0.00	\$250.29	(\$250.29)
Total Acct 428	\$0.00	\$250.29	(\$250.29)
Water Utility	\$27,000.00	\$63,123.09	(\$36,123.09)
Wtr/Swr Emergency	\$0.00	\$7,678.10	(\$7,678.10)
Total Acct 431	\$27,000.00	\$70,801.19	(\$43,801.19)
<b>Total Disbursements</b>	<b>\$27,000.00</b>	<b>\$73,557.93</b>	<b>(\$46,557.93)</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$0.00	
<b>Beginning Cash Balance</b>		<b>\$35,730.61</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$27,086.54</b>	

City of Birchwood Village Interim Financial Report by Account Number (YTD)

01/03/2013

As of 12/31/2012

Sewer Enterprise Fund

	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>
Receipts:			
Water Fee	\$0.00	\$520.23	\$520.23
Sewer Fee	\$0.00	\$75,137.50	\$75,137.50
Total Acct 341	\$0.00	\$75,657.73	\$75,657.73
DELQ - Water-Sewer fees	\$0.00	\$2,412.90	\$2,412.90
Total Acct 361	\$0.00	\$2,412.90	\$2,412.90
Interest Earnings	\$0.00	\$11.42	\$11.42
Total Acct 362	\$0.00	\$11.42	\$11.42
<b>Total Revenues</b>	<b>\$0.00</b>	<b>\$78,082.05</b>	<b>\$78,082.05</b>
Other Financing Sources:			
Sale of Investments		\$0.00	
Transfers from other Funds		\$5,880.14	
Disbursements:			
Postage/Postal Permits	\$0.00	\$100.00	(\$100.00)
Total Acct 414	\$0.00	\$100.00	(\$100.00)
Financial Administration	\$0.00	\$489.00	(\$489.00)
Total Acct 415	\$0.00	\$489.00	(\$489.00)
Engineer Service	\$0.00	\$1,322.50	(\$1,322.50)
Total Acct 416	\$0.00	\$1,322.50	(\$1,322.50)
Utility Locates	\$0.00	\$150.26	(\$150.26)
Total Acct 428	\$0.00	\$150.26	(\$150.26)
Utility - Drain Structure Care	\$58,200.00	\$26,718.75	\$31,481.25
Wtr/Swr Emergency	\$0.00	\$15,330.89	(\$15,330.89)
Sewer Utility	\$0.00	\$66,421.64	(\$66,421.64)
Total Acct 431	\$58,200.00	\$108,471.28	(\$50,271.28)
<b>Total Disbursements</b>	<b>\$58,200.00</b>	<b>\$110,533.04</b>	<b>(\$52,333.04)</b>
Other Financing Uses:			
Purchase of Investments		\$0.00	
Transfers to other Funds		\$33,133.20	
<b>Beginning Cash Balance</b>		<b>\$174,704.05</b>	
<b>Cash Balance as of 12/31/2012</b>		<b>\$115,000.00</b>	

## 2013 COUNCIL ASSIGNMENTS

**Mayor Mary Wingfield: Budget Committee, Intergovernmental Relations, Volunteer Coordinator, Roads Committee Liaison, and Weed Inspector**

**Council Member Randy Lafoy: Acting Mayor, Public Safety, Personnel Committee, and Budget Committee**

**Council Member Bill Hullsiek: Finance Committee, Capital Improvement Plan, Sewer & Water, Stormwater Drainage, Dock Liaison, and White Bear Transit Liaison**

**Council Member Kevin Woolstencroft: Parks Committee Liaison, Roads Committee, and Assistant Weed Inspector**

**Council Member Greg Donovan: Personnel Committee, Building Maintenance (excluding warming house), Planning Commission Liaison, and Garbage/Recycling**

**CITY OF BIRCHWOOD VILLAGE**

**2013 APPOINTMENTS AND ASSIGNMENTS**

Acting Mayor	Randy Lafoy
Official Depositories	US Bank, N.A. and 4M Fund
Official Newspaper	White Bear Press
City Engineer	VACANT
City Attorney	Eckberg, Lammers, Wolf & Vierling
Personnel Committee	Randy Lafoy and Greg Donovan
Budget Committee	Mary Wingfield, Randy Lafoy, Larry Walker, and Paul Steinhauser
Finance Committee	Bill Hullsiek, Clint Dixon, and Bob Manke
Cable Commission	Greg Donovan and Randy LaFoy
Transit Commissioner	Milo Haus and Bill Hullsiek
Water Superintendent	Saint Paul Board of Water Commissioners
Emergency Water Main and Sewer Services	Saint Paul Board of Water Commissioners
Planning and Zoning	White Bear Lake Planning Department
Plumbing, Sewer, Water, and Heating Inspections	Lake Area Inspections
Police	White Bear Lake Police Department
Fire	White Bear Lake Fire Department
Animal Control	White Bear Lake Police Department
Tree Inspector	Steve Dean
City Historian	Scott Freeberg

**ROADS AND STREETS COMMITTEE**

**BYLAWS**

**I. NAME OF THE COMMITTEE**

The name of the committee shall be the Roads and Streets Committee.

**II. PURPOSE OF THE COMMITTEE**

The purpose of the Roads and Streets Committee is to advise the City Council on the status of all roads and streets within the city limits of Birchwood, including maintenance, upgrading, and repair of such roads and streets and the funding of all such work.

**III. COMMITTEE MEMBERSHIP**

**A. Members.** The committee shall consist of up to seven members appointed by the City Council. No more than three members shall live on or border the same street in Birchwood or own property on the same street. For purposes of this Section, Hall Avenue and Cedar Street are to be considered one street.

**B. Terms.** The terms of each member shall be for three years. A person may be reappointed to the committee by the Council and serve more than one term. Terms shall run from July to July. Any new member appointed in months other than July shall end his/her term three years after her/his appointed month.

**C. Resignation.** Any member of the committee may resign before his or her term expires by providing written notice of such intent to the City Council. The resignation shall be effective upon receipt of the written notification, unless the member identifies a later date.

**D. Removal.** The City Council may remove any member from the committee prior to expiration of the member's term upon the request of a majority of the committee members.

**E. Vacancy.** In the event of a vacancy through resignation or removal, the City Council shall appoint a person to serve the remainder of the term of the person who resigned or was removed. The person appointed to fill a vacancy may be appointed to a full three year term upon expiration of the filled term.

**F. Council Liaison.** The member of the City Council who is appointed the Director of Public Works each January shall be the liaison to the

committee. The Council liaison shall not be a voting member of the committee but may participate in committee functions and may vote on all matters before the Council involving the committee.

- G. List of Members.** The City Clerk shall maintain a list of the members of the committee and the date of each member's term and shall post the same information on the City webpage.

#### **IV. COMMITTEE OFFICERS**

- A. Chair.** The committee shall elect a Chair of the committee. The Chair shall be elected for a one year term. The term shall run from July to July. The Chair may serve up to three consecutive terms.
- B. Secretary/Treasurer.** The committee shall also elect a Secretary/Treasurer. The term shall run from July to July. The Secretary/Treasurer may serve up to three consecutive terms. The committee may determine to separate the office of Secretary/Treasurer and decide to elect two people to serve these roles, one as Secretary and one as Treasurer. Whether the office is combined or not may be changed from year to year.
- C. Majority Vote.** All officers shall be elected by a simple majority vote.
- D. Resignation.** Any officer may resign his or her position by providing written notice of the resignation to the City Clerk and the Mayor. The resignation shall be effective upon receipt of the notice or upon such later date, not to exceed three months, that the officer designates.
- E. Vacancy.** Upon a vacancy in the position of one of the officers, the committee shall elect another member to serve the remainder of the vacated term.

#### **V. COMMITTEE MEETINGS**

- A. Scheduling.** The Chair of the committee shall call for meetings of the committee as deemed necessary. The committee shall meet at least once every three months. The Chair shall call for a meeting upon the request of three committee members.
- B. Open Meeting and Notice.** All meetings of the Roads and Streets Committee shall be open to the public. Notice of all committee meetings shall be given at least three days in advance by posting notice on the City's webpage and by posting a notice on the bulletin board outside city hall, along with a draft agenda.

**C. Quorum Not Necessary.** The committee can meet regardless of how many members are in attendance at the meeting. A quorum is not necessary for the committee to hold a meeting.

**D. Minutes.** The committee shall keep Minutes of all its meetings. The Secretary or other person shall be responsible for keeping the Minutes of each meeting. Upon approval of the Minutes by the committee, the Chair shall forward the approved Minutes to the Clerk and the Council and the approved Minutes shall be posted on the city webpage.

## **VI. COMMITTEE ACTION**

**A. Recommendations to the City Council.** The committee shall make recommendations to the City Council on the maintenance, upgrade, repair, and other work on any of the roads and streets within the city limits of Birchwood. The committee shall also make recommendations regarding the funding of any of the work on the roads and streets in Birchwood recommended by the committee. The committee may file both a majority report and a minority report with the Council on any recommendation.

**B. Authority.** The committee shall have no authority to make final decisions with regard to any work on the roads and streets in Birchwood. All final decisions shall be made by the Council.

**C. Expenses and Budget.** The committee shall not incur any expenses without the approval of the City Council. The committee may request the City Council to budget funds for the work of the committee. The committee shall submit any budget requests to the Council by October 1 of the year previous to the year for which funding is requested.

**D. Report to the Council.** Upon the request of the City Council, the Chair or another member shall report to the Council on the activities of the committee.

## **VII. COMMITTEE CONTINUATION**

The committee shall continue in existence until terminated by action of the Council.

## **VIII. COMPENSATION**

Members of the Roads and Streets Committee shall receive no compensation for their service on the committee.

## **IX. AMENDMENT OF BYLAWS**

These bylaws may be amended at any time by action of the City Council. The committee may recommend changes to the Council.

**\*\*APPROVED June 12, 2012\*\***

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**bwclerk@comcast.net**

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## Roads committee

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**From :** mark anderson <[f10fixer@gmail.com](mailto:f10fixer@gmail.com)>

Sat, Jun 30, 2012 04:26 PM

**Subject :** Roads committee

**To :** [bwclerk@comcast.net](mailto:bwclerk@comcast.net)

I would like to be on the roads committee.

Mark Anderson  
506 Wildwood ave.  
651-270-8353

Thank You,

Mark Anderson ACMT  
Best Jets Intl.  
6855 34th ave. S. hangar #8  
Minneapolis, MN 55450  
651-270-8353 [f10fixer@gmail.com](mailto:f10fixer@gmail.com)

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## **Request to serve on the Birchwood Roads Committee**

### **To the Mayor and City Council members of Birchwood Village:**

I moved to Birchwood with my family back in December of 1992. The reasons we chose Birchwood were varied, but include the trees and the wooded atmosphere, good schools, close proximity to the 'Big City', closer proximity to White Bear Lake (which we love!), deeded access to the Birchwood beaches and very friendly people. Probably the biggest reasons were the small town feel of Birchwood as well as the fact that it was a small close-knit community of great people. This last aspect was important as the few remaining lots left for sale meant that there would be no room for corrupt politics, favoritism, cronyism and such as the village was completely built-up already. Having helped my parents fight much of this within their home city of Brooklyn Park back in the late 1980's through mid 1990, it meant a lot that we wouldn't have to deal with that here in Birchwood, and could concentrate more on being good neighbors and parents. Birchwood was, and still is, a great place to live! People here just like that old-time, small-town feel, and are very resistant to any major changes. This is exactly what keeps Birchwood the small town that it is, and we hope, that it will remain.

When we moved in, some of the roads were in a bad state of repair and one in particular (County road 29, aka: Cedar/Hall) was worse as it was under jurisdiction of Washington County at that time. The Village Council worked through the various roads and soon all were in good shape save for County 29. In 1993 (I believe?) the County offered a mill/overlay for County 29 to the Birchwood Village Council, along with care for three years and deposited funding to take care of the next mill/overlay whenever that was needed (I guess it was expected after 18-20 years?). The road was officially turned over to Birchwood Village and became our property. At that time the assessment laws should have been amended as Cedar/Hall is not an ordinary city street – it is a main trunk (collector route) that most of our streets use as access to the other streets. Almost all Birchwood residents use Cedar/Hall to get to and from their homes so the need to treat it differently than the other streets is evident. Not only that, Cedar/Hall receives a huge amount of traffic from non-residents as it always has been the shortcut along the south shore of the lake. It never has been the 'same' as other city streets and never will be. At the time that Birchwood took possession of Cedar/Hall, many residents voiced their opinions that some changes were needed when the need for maintenance was eventually called for, and were reassured by the Council that since the street was a major 'Thoroughfare' that all residents would be assessed equally, as we all used the street. The other anomaly we noticed was when our street (White Pine Lane) was resurfaced, the residents along our street (and similarly along other streets) were assessed based on the old-fashioned method using a share of linear frontage. This was done as it was the law that was on the books at that time and still is. There are better and much more equitable ways of assessment that are used by other cities and that need to be considered for Birchwood also. Secondly, the City currently has no concrete maintenance plan at this time and in the interest of utilizing our tax dollars in the best way (and in the best interest of all Birchwood residents) I feel that the formation of this committee in order to create a comprehensive road maintenance policy is an idea that is long overdue.

Living in this community for almost twenty years, I have a great amount of respect for my fellow residents as well as a genuine understanding of what is expected from our local Government. Now that I am retired, I feel a civic obligation to give back to the City. I feel that I can do that by serving on the new Roads Committee.

My qualifications are varied and include the following:

Having served on several Committees, I understand the formal process and what is expected of members. I served on the Recreational Committee for the St. Paul Main Post Office for close to twenty years, planning events, dances, picnics and such for 1600 employees. I can coordinate, budget and execute complex plans as needed to achieve the desired outcome. I also served on Pack and Troop Committees for Cub Scout Pack and Boy Scout Troop 439 in White Bear Lake for about 12 years, organizing events and overseeing the growth of the Pack/Troop and its young members within the BSA organization.

I have studied urban politics to a degree, and participated firsthand when my parents were both very active in

Brooklyn Park politics due to a large amount of corruption there. Much of this had to do with many road and street projects, and as a result, I learned a bit about assessment methods within that city as well as some others.

I spent some time in Industrial Sales and fully understand Engineering Specifications (writing and interpreting) as well as dealing with engineers, various ordinances, blueprints and maps, etc.

Having spent my life doing mostly maintenance and repairs for the US Postal Service in St. Paul, I have a very high degree of mechanical ability, electrical and electronics knowledge. I also possess the spatial ability to visualize ideas, taking them from a rough dimensional sketch to completion. There has not been much I have encountered in life that I couldn't personally improve or fix and even less that I wouldn't try! My wife says that if I can't fix it, it can't be fixed! I have quite a bit of knowledge with construction (residential and industrial), various structural elements as well as materials. Some friends have referred to me as a 'Jack of all Trades', which I do not consider myself to be.....but I do have some experience in many aspects of life..

I am intelligent, great at solving problems and thinking outside the box. I have not yet encountered a problem in life that cannot be effectively resolved for the benefit of all parties concerned, and as I said before, I will try hard to attain a reasonable outcome to any problem.

I am an old Eagle Scout and honest to a fault. Whether it benefits me directly or not, you'll always get a fair shake from me. In my opinion, there's always a better way to achieve a goal more effectively and fairly for all concerned. My goal in serving on this Committee is to help this Committee draft a comprehensive maintenance plan for ALL STREETS in Birchwood based on current condition, usage and various indicators in order for our streets to remain in the best usable condition for ALL RESIDENTS for the least amount of tax dollars. I don't believe in scrimping, only in careful planning and even more careful shopping. I'd like to see the outdated road assessment laws in Birchwood amended to be more equitable for all residents and there are a couple good ways to accomplish this. In the end, the happiness of all residents and neighbors is the most important thing to me, and I want everyone to look at whatever I accomplish and say "That works good, it's fair for everyone, and that makes me happy"! Nothing pleases me more than hearing someone say "Thanks" for something I have done right, and I fully expect to be held accountable when I have done something wrong. I don't drop the ball and I won't pass the buck.

I feel that I can do a great job for the City Council and ask that you give me that chance. Please let me know if you have any further questions. Thank You.

Respectfully submitted,

John Anderson  
2 White Pine Lane  
Birchwood, MN. 55110

andefam@hotmail.com  
home - 651-653-4548  
cell - 651-895-7493

**XFINITY Connect**

birchwoodvillage@comcast.net

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**RE: Roads Committee**

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**From :** Tami Heart <tamiheart@hotmail.com>

Tue, Jul 03, 2012 12:36 AM

**Subject :** RE: Roads Committee**To :** birchwoodvillage@comcast.net

Dale,

I passed on your message to David. Thank you for asking about the spelling of his last name. It is REYNOLDS.

Tami Heart

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Date: Mon, 2 Jul 2012 14:17:11 +0000

From: birchwoodvillage@comcast.net

To: tamiheart@hotmail.com

Subject: Re: Roads Committee

Tell David (is it Renolds or Reynolds) that the Council will consider naming the Committee members at the July 10th Council meeting. I strongly recommend that David attend that meeting.

**CITY OF BIRCHWOOD VILLAGE**

**Dale Richard Powers, MA, AICP**  
**City Clerk-Coordinator**  
**207 Birchwood Avenue**  
**Birchwood, MN 55110**  
**651-426-3403**

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**From:** "Tami Heart" <tamiheart@hotmail.com>**To:** birchwoodvillage@comcast.net**Sent:** Friday, June 29, 2012 8:16:14 PM**Subject:** Roads Committee

Dear City of Birchwood Village,

David Renolds wishes to be considered for the Roads Committee.

His contact information is below.

Thank you.

David H. Renolds  
523 Hall Ave.  
Birchwood, MN 55110  
651-429-3129

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**XFINITY Connect**

**birchwoodvillage@comcast.net**

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## **Roads committee**

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**From :** Tom's Email <tom1263@comcast.net>

Wed, Jun 27, 2012 02:48 PM

**Subject :** Roads committee

**To :** Birchwood Village <birchwoodvillage@comcast.net>

I am willing to serve on the road committee.

Please contact me if you have any questions.

Thanks

Tom Patsy  
1 Hall Ct  
651 331 8595

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Taken from the approved minutes of the May 8, 2012 Council Meeting

**OPEN PUBLIC FORUM:** The following residents addressed the Council at this time:

**Nardecchia** expressed concerns about the proposed Hall Avenue repairs and noted that the City is bound by verbiage in the contract between itself and the County when the road was turned back to the City and dollars were sent to the City for maintenance of Hall/Cedar. **Nardecchia** also recommended the following: developing a comprehensive road maintenance plan; creating a standing roads committee; and obtaining an independent needs analysis whenever major public works projects are proposed.

**Donnell** agreed with Nardecchia and said she would serve on the roads committee. **Donnell** also mentioned that there were some cars drag racing on Hall Avenue a couple of Sundays ago that created a safety hazard.

**Patsy** agreed with Nardecchia and said he would serve on the roads committee.

**Ruehle** stated that he can "sleep well at night" with the current Council, agrees with Nardecchia and also expressed concerns about the impact of any assessments on the two rental properties he owns on Hall Avenue.

**Heart** agreed with Nardecchia and is willing to serve on the roads committee, and thinks Hall/Cedar should be sealcoated immediately. **Heart** also stated that Hall/Cedar needs regular maintenance instead of reconstruction, and traffic calming devices so the speeds are reduced.

Agreement # 02- \_\_\_\_\_

**AGREEMENT  
between**

**CITY OF BIRCHWOOD VILLAGE**

**and**

**BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL**

This **AGREEMENT**, made and entered into on this 10 day of January, 2012, by and between the **CITY OF BIRCHWOOD VILLAGE** ("Birchwood Village"), a municipal corporation under the laws of the State of Minnesota, and the **BOARD OF WATER COMMISSIONERS OF THE CITY OF SAINT PAUL**, a municipal corporation under the laws of the State of Minnesota ("Board").

**WITNESSETH:**

**WHEREAS**, in order to reduce costs and improve the quality of certain public water utility related services, Birchwood Village has requested that the Board perform such services within the boundaries of Birchwood Village; and

**WHEREAS**, the Board has demonstrated cost -effectiveness and expertise in providing these services both for itself and its regional customers; and

**WHEREAS**, Birchwood Village has selected public water main and public water service repair from a list of cost-effective water-related services that the Board could perform for Birchwood Village.

**NOW THEREFORE**, in consideration of the mutual terms, covenants, warranties and conditions hereinafter set forth, the parties hereto, intending to be legally bound hereby, mutually agree as follows:

## **ARTICLE 1**

### **Scope of Services**

#### **SECTION 1.01. Scope of Services.**

Pursuant to the terms and conditions herein, the Board agrees to perform emergency repair, relocation, and installation of public water mains, water services and hydrants located within the legal boundaries of Birchwood Village ("Emergency Work"), as it is defined and pursuant to ARTICLE 4 of this Agreement.

## **ARTICLE 2**

### **Term**

#### **SECTION 2.01. Term.**

This Agreement shall commence upon the date the last required signature is obtained and shall remain in effect until terminated in accordance with SECTION 8.04 of this Agreement.

## **ARTICLE 3**

### **Responsibilities of Birchwood Village**

#### **SECTION 3.01 Birchwood Village Responsibilities.**

Birchwood Village agrees it shall accomplish the following tasks:

- 1 Provide assistance if needed to coordinate locating any water main or facility requiring Emergency Work, and determining affected properties.
- 2 Arrange to place salt and sand when and where it is necessary to safeguard vehicular and pedestrian traffic due to a main or service break or due to water pumped from the excavation area of a main or service break.
- 3 Provide materials, installation and maintenance of all necessary permanent street, sidewalk or boulevard repairs. Birchwood Village shall maintain any temporary street, sidewalk, or boulevard repair made by the Board.
- 4 The City Engineer shall be the primary contact for the Board and their representatives for all emergency work and has the authority to act on behalf of the City during emergency work.

These tasks may be revised or expanded from time to time during the life of this Agreement. No revision or expansion shall be effective until approved by the Board and Birchwood Village and a written amendment to this Agreement is properly executed.

**ARTICLE 4**  
**Responsibilities of Board**

SECTION 4.01 Board Responsibilities.

The Board agrees to perform duly requested Emergency Work in accordance with good industry practices and consistent with its own proven methods. The Board agrees to:

1. When responding to an emergency request, report to the work site within four (4) hours of initial notification. The Board shall notify the City Engineer of Birchwood Village upon completion of the initial site visit.
2. Evaluate and determine the urgency of the problem requiring Emergency Work.
3. Operate the main valves to isolate any water main break, assist with leak detection, and flush and restore service to the main after completing any repair.
4. Pinpoint the leak with its Leak Detection equipment and personnel.
5. Contact Gopher State One-Call for utilities locations.
6. Review and determine the urgency of the repair and provide the City of Birchwood Village with a determination regarding whether Emergency Work should be commenced immediately (with possible overtime) or whether the Emergency Work may be, or should be, commenced and performed during regular work hours.
7. Notify affected property owners of necessary repairs and shut down.
8. Arrange for all street barricades and traffic control devices needed to perform the repair and direct traffic.
9. Furnish all labor, equipment and material required to excavate safely around any and all located utilities, comply with applicable OSHA regulations, and repair the public water main or public water service break and compact the backfill material.
10. Provide a site for disposal of spoil material from the main or service excavation. The Board shall also furnish all backfill material.
11. The Board shall bring all excavated areas up to finish grade. If excavation is in a street section, 12-inches of aggregate base shall be used to bring the street to grade. Birchwood Village will be responsible for any permanent street correction.

These tasks may be revised or expanded from time to time during the life of this Agreement. No revision or expansion shall be effective until approved by the Board and Birchwood Village and a written amendment to this Agreement is properly executed.

## **ARTICLE 5**

### **Consideration and Payment**

#### SECTION 5.01. Consideration.

In consideration of the Board's performance of Emergency Work under this Agreement, Birchwood Village shall compensate the Board for any and all labor, materials, equipment, overhead and miscellaneous expenses and charges associated with the Board's performance of same at the attached rates, as shown on the attached Exhibit 1.

#### SECTION 5.02 Change in Rates

On October 1 of each year, the Board shall provide Birchwood Village with an estimate of the expected percentage change in labor, material, miscellaneous, overhead and equipment rates for the next year, and shall provide Birchwood Village the actual rates as soon as they become available. Labor charges shall be at the rates specified in the appropriate bargaining unit contract with the City of Saint Paul, plus fringe benefits calculated by the City of Saint Paul. Charges for materials, equipment and miscellaneous charges shall be at rates calculated by the Board. These changes in rates shall take effect on January 1 of the following year.

#### SECTION 5.03. Payment.

Birchwood Village shall pay the full amount of any invoice received in writing from the Board within forty five (45) days of receipt. The Board's invoicing shall comply with applicable state and local law and the parties shall comply with all W-9 filing requirements, as well as other IRS and Minnesota Department of Revenue taxing requirements. Payment shall be delivered to the address indicated on the invoice.

## ARTICLE 6

### Liability and Hold Harmless

#### SECTION 6.01. Liability.

Each party agrees that it shall be responsible for its own acts and omissions and the results thereof to the extent authorized by law and shall not be responsible for the acts and omissions of the other party and the results thereof. Both Parties' liability shall be governed by and limited to the tort liability provisions found in Minnesota Statutes Chapter 466, as amended from time to time, and any other applicable law. This provision shall survive any termination of this Agreement.

#### SECTION 6.02. Hold Harmless.

Each party agrees that it shall indemnify and save harmless, protect and defend the other party, its employees and agents from any or all liability, suits or demands, including the legal defense thereof, for bodily injuries, including death, or property damages, including loss of use arising out of any activity by itself or its employees and agents under this Agreement.

## ARTICLE 7

### Representations and Warranties

#### SECTION 7.01. Authority, Binding Effect.

Both parties represent and warrant that the individuals executing this Agreement on behalf of each of the parties have the full power and authority to execute and commit to this Agreement, and this Agreement constitutes a legal, valid and binding obligation enforceable in accordance with its terms.

#### SECTION 7.02. Corporate Authorization.

Both Parties represent and warrant that the execution and delivery of this Agreement and the performance of duties contemplated herein have been duly authorized by all necessary legislative or corporate action. The execution, delivery and performance of this Agreement shall not conflict with or result in the breach or violation of any term or provision of either party's municipal ordinances or state statutes, charter or constitution, any other state or federal law, or any other provision or authority.

**ARTICLE 8**  
**Miscellaneous Provisions**

SECTION 8.01. Successors and Assigns.

All terms, covenants, and conditions of this Agreement shall be binding upon, and inure to the benefit of and be enforceable by the parties hereto and their respective successors, heirs, executors and assigns. This Agreement and the rights and obligations of any party hereunder shall not be assignable except with the written consent of the other party hereto, which consent shall not be unreasonably withheld.

SECTION 8.02. Notice.

Any notice, request, demand, statement or consent required or permitted to be given hereunder, except for notice of Emergency Work as provided for in SECTION 1.01 above, shall be in writing, shall be signed by or on behalf of the party giving notice, and shall be personally delivered or sent by express service, fax, or certified or registered mail, return receipt requested, postage prepaid, to the other party to the respective address given herein below:

If to Board:	General Manager, Saint Paul Regional Water Services c/o: Board of Water Commissioners 1900 Rice Street Saint Paul, Minnesota 55113 Fax No. (651) 266-6290
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If to Birchwood Village:	City Clerk, Birchwood Village 207 Birchwood Avenue Birchwood Village, Minnesota 55110 Fax No. (651) 426-7747
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Any such notice given as aforesaid shall be conclusively deemed to have been given and received on the day on which such notice was delivered. Either party may, from time to time, furnish in writing to the other party such notice of a change in the address or individual to whom such notices are to be given.

SECTION 8.03 Severability.

This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this Agreement, or the application thereof to any person or circumstance, shall, for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the extent permitted by law.

SECTION 8.04. Termination.

Except for the provisions contained in ARTICLE 6, which shall survive any termination of this Agreement, this Agreement may be terminated in whole or in part in writing by either party, provided that no termination may be effected unless: (1) The other party is given not less than ninety (90) calendar days written notice of intent to terminate, (2) The non-terminating party is afforded an opportunity to confer with the terminating party prior to termination. Each party reserves the right to terminate with less than 90 days notice if public safety is at issue, but shall immediately contact the other party and attempt to confer about the issue and possible solutions.

SECTION 8.05. Waivers and Amendments.

This Agreement may be amended or superseded, and its terms or covenants hereof may be waived, only by a written instrument executed by the parties hereto or in the case of a waiver, by the party waiving compliance. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by any party of the breach of any term or covenant contained in this Agreement or in any other such instrument, whether by conduct or otherwise, in anyone or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any breach, or a waiver of the breach of any other term or covenant contained herein.

SECTION 8.06. Counterparts.

This Agreement may be executed in two or more counterparts, each of which may be deemed an original but together shall constitute but one and the same instrument.

SECTION 8.07. Force Majeure.

Neither party shall be held responsible for performance of this Agreement if the party's performance is prevented by acts or events beyond the party's reasonable control including, but not limited to: severe weather and storms, earthquake or other natural occurrences, strike and other labor unrest, power failures, electrical power surges or current fluctuations, nuclear or other civil military emergencies, or acts of legislative, judicial, executive or administrative authorities.

SECTION 8.08. Entire Agreement.

It is understood and agreed that this entire Agreement supersedes and replaces any and all agreements and negotiations, whether oral or written, between the parties relating to the subject matters herein.

SECTION 8.09. Attorney's Fees.

The prevailing party in any dispute or litigation hereunder shall be entitled to collect its costs and disbursements from the other party if so ordered by a court of law. Each party shall be responsible for its own attorneys fees.

SECTION 8.10. Insurance.

The Board is an authorized self-insured under Minnesota State law for all property damage and general liability claims. The City is a political subdivision insured in accordance with Minn. Stat. Chapter 471 and other applicable law.

SECTION 8.11. Independent Contractor.

The Board and its employees and agents shall be considered an independent contractor of, and not employees of, the City of Birchwood Village. Nothing in this agreement shall be construed as to create a partnership or joint venture between the Board and the City of Birchwood Village.

[The remainder of this page is left intentionally blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates listed below.

Approved:

By: Stephen P. Schneider  
Stephen P. Schneider, General Manager  
Saint Paul Regional Water Services

Date: 1/13/12

Approved as to Form:

By: Lisa K. Todd  
Assistant City Attorney

Date: 1/10/12

Approved as to Form:

By: \_\_\_\_\_  
City Attorney

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

**Board of Water Commissioners  
Of the City of Saint Paul**  
FIN 41-6005521

By: Matt Anfang  
Matt Anfang, President

Date: 1/10/12

By: Mollie Gagnelius  
Mollie Gagnelius, Secretary

Date: 1/13/12

By: Todd Hurley  
Todd Hurley, Director  
Office of Financial Services

Date: 1-19-12

**City of Birchwood Village**

By: Alan Mitchell  
Alan Mitchell, Mayor

Date: January 6, 2012

Attest:  
By: Dale Powers  
Dale Powers, City Clerk

Date: 1-6-12

BOARD OF WATER COMMISSIONERS  
RESOLUTION — GENERAL FORM

No. 7156

PRESENTED BY COMMISSIONER Lantry

DATE January 10, 2012

**WHEREAS**, the City of Birchwood Village Board has requested that the Board of Water Commissioners of the City of Saint Paul perform water facility repair, relocation and installation services for its public water system; and

**WHEREAS**, staff has prepared an Agreement which provides that services be performed by the Board in accordance with a schedule of charges, and for a term which will continue until such time as either party notifies the other of its intent to terminate said Agreement; now, therefore, be it

**RESOLVED**, that the Agreement between the Board of Water Commissioners and Birchwood Village is hereby approved in substantially the form submitted, and that the proper officers are hereby authorized and directed to execute said Agreement on behalf of the Board following approval of the assistant city attorney.

**Water Commissioners**

**Yeas**

**Nays**

Lantry  
Rossbach  
Tolbert

Vice President Brendmoen  
President Anfang

In favor 5

Opposed 0

Adopted by the Board of Water Commissioners

January 10, 2012

Mollie Sognelius  
SECY.

**Exhibit 1  
Birchwood Village  
Emergency Maintenance Services**

Effective January 1, 2012

Labor charges shall be at the rates specified in the appropriate bargaining unit agreement with the City of Saint Paul, plus fringe benefits calculated by the City of Saint Paul. Total labor costs are dependent upon the number and classification of employees the Board determines are required to respond to request for Emergency Work. Bargaining unit agreements provide for a regular and an overtime rate. In general, the overtime rate is at time and one-half.

Bargaining agreements typically applicable are Laborer's local 132 and Manual and Maintenance Supervisor Association, ASCME Technical Local 1842 and Professional Employees Association.

Typical job classifications:

Water distribution supervisor, Driver operator water, Heavy equipment operator water, Water system worker, Water utility worker, Water utility technician, Water quality technician.

The contracts can be viewed at .... <http://stpaul.gov/index.aspx?NID=757>

**Equipment Charges**

Hourly Equipment Rates

¾ ton truck	\$7.15
Standard sized van	\$9.00
One ton truck	\$9.85
Step of crew van	\$10.00
Heavy duty trucks	\$16.25
Single axle dump truck	\$19.25
Tandem axle dump truck	\$20.25
Tractors with backhoe	\$18.00
Loader	\$58.00
Excavator	\$95.00
Pumps	\$15.00
Leak locator*	\$35.00

\* (Includes leak detection equipment and van)

**Material and Soils Charges**

All material, soils and backfill material shall be charged at actual cost plus the material additive.

**Excavation Spoils Disposal Charge**

A schedule charge of \$200.00 for disposal of excavation spoils shall be charged for each excavation event.

**Additive and Overhead Charges**

Labor additive on regular hours = 71.6%

Labor additive on overtime hours = 43.9%

Material additive = 47.6%

Equipment additive = 14.25%

Overhead Charge: After calculating all charges, an overhead charge of 15% of the total amount shall be added to each invoice.

**Trip Charge**

One trip charge of \$111.00 shall be applied to each main break event.

**Incidental Charges**

Charges for incidentals (e.g. obtaining permits, renting barricades, flashers or other traffic control, etc.) shall be at actual cost.

**CONTRACT AGREEMENT BETWEEN  
VILLAGE OF BIRCHWOOD AND  
WASTE MANAGEMENT  
FOR CURBSIDE RESIDENTIAL RECYCLING COLLECTION**

**THIS AGREEMENT** is made this 10<sup>th</sup> day of Sept, 2008 between Village of Birchwood (hereinafter "City") and Waste Management (hereinafter "Contractor").

**WITNESSETH:**

**WHEREAS**, the City supports curbside recycling and desires that it be available to its residents; and

**WHEREAS**, the City supports curbside recycling as part of an overall landfill abatement program; and

**WHEREAS**, Washington County has funding available for curbside recycling; and

**NOW THEREFORE**, the City and Contractor mutually agree as follows in consideration of the mutual promises and covenants contained herein.

**DEFINITIONS:**

A. **Recyclable Materials:** Means all items of refuse designated by the Washington County Environmental Services to be part of an authorized recycling program and which are intended for transportation, processing, and re-manufacturing or reuse and include the following:

- Newspaper: includes all supplements and ads delivered with a newspaper.
- Corrugated cardboard: all corrugated cardboard boxes except for boxes that are waxed or plastic coated or home delivered pizza boxes
- Glass containers: all clear, green and brown glass food and beverage containers.
- Metal containers: aluminum, steel, bimetal, and "tin" food and beverage containers.
- Plastic: all plastic bottles with a neck, with the exception of bottles that previously contained hazardous materials i.e. motor oil.
- Miscellaneous paper: all glossy paper, magazines, catalogs and coated paper. All mixed paper, communications, letters, envelopes, computer paper, copier paper, ledger paper, NCR forms, receipts and bills, advertisements, hard and soft cover books, fax machine paper, clean paper bags and sorted direct mail.
- 4 C's limited boxboard and phone books: all Cereal, Cake, Cracker, and Chip boxes and all phone books.
- Any additions or exclusions as agreed upon by Contractor and City.

- B. Recycling Container: means a receptacle in which recyclable materials can be stored and later placed at the curb or alley for collection as specified by the City. Acceptable containers shall be 30, 64, or 90 gallon wheeled carts provided by the contractor and properly marked for recycling.
- C. Single Stream Recycling Collection Service: Residents will be instructed to co-mingle all recyclable materials in one container that will be picked up biweekly by Contractor. Contractor will pick up all recyclable material placed in and next to recycling containers at CDUs and other city designated collection stops in the City.
- D. Certified Dwelling Unit (CDU): means a single family home.
- E. Contractor: means person or persons authorized by the city to perform recycling collection services on prescribed routes within collection districts within the City.
- F. Collection Vehicle: means any vehicle licensed and inspected by the city for collection of recyclables within the corporate boundaries of the city.
- G. Collection Hours: means the time period during which collection of recyclable material is authorized in the city.
- H. Missed Collection: means the failure of the contractor to provide recycling collection service to a CDU or other city designated collection stop within the recycling district during collection hours on the scheduled collection day.
- I. Holidays: means any of the following: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- J. Scheduled Collection Day: means the day or days of the week on which recycling collection service by the contractor is to occur, as specified in the contract with the city. If a holiday occurs on a weekday, the collection for each day of that week after the holiday will be made one (1) working day later.
- K. Recycling Coordinator: means the City Clerk or other such person designated by the City.

**CONTRACTOR AGREES TO THE FOLLOWING:**

1. Frequency of Residential Collection: Residential-recycling collection shall occur biweekly.
2. Residential Collection Hours: Collection shall commence no earlier than 7:00 a.m. local time and shall be completed by 7:00 p.m. on collection day. Residents will be required to have materials placed at the collection point by 7:00 a.m. on the scheduled collection day. Pick-up must be completed prior to dark on each pick-up day.

3. Holidays: The contractor will observe all holidays on which no recycling collection service will be performed. When a holiday occurs on a scheduled collection day, the collection for each day of the week after the holiday shall be made one (1) working day later.
4. Recycle Cart Purchase and Delivery: At its expense, the Contractor agrees to deliver, service and repair, and maintain sufficient cart inventory to meet supply and demand needs for the City Recycling CDUs. The Contractor shall initially deliver one 64-gallon cart to each CDU and have a sufficient inventory of 30-gallon and 90-gallon carts available for delivery and switch-out with the 64-gallon carts per resident/customer request. The switch-out should occur no sooner than 90 days after initial delivery. The standard 64-gallon cart shall be approximately 26" X 26" X 41" in dimension, and be smooth for ease in cleaning. The cart shall be green with a yellow lid and be uniform and consistent in color and design with a recycling symbol on two sides and front and approved instruction label imbedded into each lid, so as to be easily identified by the resident/customer and the Contractor driver as the container for recyclable materials.
5. Recycling Cart Maintenance/Replacement: The driver is required to report to the Contractor the location of any cart that is damaged. The Contractor is required to notify the Recycling Coordinator by fax/email of any driver report of cart damage. The Recycling Coordinator will notify the Contractor by fax/email of any cart damage or request for change of cart size that is reported/requested to them by customers/residents. Any damaged cart or cart request will be repaired or replaced by the Contractor within two (2) week of the report.
6. Point of Collection: Most residential recycling collection will occur at the same location from where the regular refuse is collected, generally street curbside. Carts shall be placed with the handle toward the house and lid opening toward the street. The driver is required to place the emptied cart back/down in the same location as set by resident and will not be left in the traveled portion of the street, if any.  
  
Recycling carts/containers for Municipal recycling collection shall be placed at agreed upon specific locations as determined by the City. All carts/containers shall be returned to the specific location after completion of collection. Contractor will pick-up recycling materials at City Hall and other City facilities at no charge to City.
7. Ownership of Recyclable Materials: All recyclable materials for collection shall remain the responsibility and in the ownership of the occupant of the resident or Municipal location until handled for collection by the Contractor. At the point of collection the recyclable materials become the property of the Contractor. Any person or persons taking recyclable materials from a curbside container without explicit permission of the resident or Municipality will be in violation of local ordinance and subject to penalty. The Contractor shall report to the Recycling Coordinator any instances of suspected scavenging or unauthorized removal of recyclable materials from any collection container.
8. Procedure for Unacceptable Materials, Materials Outside Cart and Unreachable Carts: If the contractor determines that a resident has set out unacceptable recyclable materials, left recyclable materials outside of the cart, or has positioned the cart so that it is unreachable with the mechanical arm, the contractor shall use the following procedures:

A. The contractor shall collect all the recyclable materials and leave an "education tag" provided by the contractor attached to the handle of the recycling container indicating acceptable materials, the proper method of preparation and the proper placement of the cart.

B. The driver shall record the address and report the addresses to the Contractor Dispatcher, who will notify the City's Recycling Coordinator of the addresses no later than noon the following day.

9. Compliance with Laws and Regulations: In providing services hereunder, the Contractor shall abide by all statutes, ordinances, rules, regulations and standards pertaining to the provisions of services to be provided hereunder promulgated insofar as they relate to the firm's performance of the provisions of this agreement, including but not limited to OSHA regulations and human rights and non-discrimination regulations. Any violation shall constitute a material breach of this agreement. The laws of the State of Minnesota, ordinances of Washington County and all ordinances of the City shall control this contract.
10. Communication: Contractor will distribute information to all accounts at least twice a year concerning the recycling program, including but not limited to materials to be collected, material preparation and restrictions, collection schedules and schedule changes and a phone number for customer questions or complaints.
11. Equipment: Contractor will provide a sufficient number of properly equipped and licensed vehicles to provide the required services according to the standards described. Such vehicles shall be maintained in a safe and sanitary manner. The firm's name, phone number and a vehicle identification number shall be prominently displayed on both sides of the vehicles.
12. Weighing of Loads and Reporting Requirements: The contractor will keep accurate records consisting of an approved electronic report. A detailed quarterly report shall be provided to the City that identifies total tonnage activity by commodity. This report should include all curbside and municipal recycling activity.
13. Route Management and Customer Service: The Contractor shall, at all times, provide the City Recycle Coordinator with a lead route/driver supervisor who is accessible to the Contractor Dispatch department via two way communications and to the Recycling Coordinator to handle route and collection issues in a timely fashion. The Contractor shall have on duty Monday through Friday from 8:00 a.m. to 4:30 p.m. a dispatch customer service representative to receive customer calls and route issues. The Contractor shall provide a 24 hour answering service line or device to receive customer calls. The Route Supervisor and all collection vehicles must be equipped with 2-way communication devices.

14. Procedure for Complaints-Questions-Missed Collections. A complaint of service or missed collection is a complaint received by the Contractor from either the customer or the Administration Office. If the report is for a missed stop and is received by the Contractor before 1:00 p.m. on a scheduled working day, the Contractor is required to return to the complaint address and complete the collection. If the report is registered after 1:00 p.m. on a scheduled working day, the Contractor is required to return to the complaint address by 12:00 noon the following working day.
15. Clean up Responsibilities: The contractor shall adequately clean up any recyclable material spilled or blown during the course of collection and/or hauling operations. All collection vehicles shall be equipped with at least one broom and one shovel for use in cleaning up material spillage. The contractor shall have no responsibility to remove or clean up any items, which are not recyclable materials.
16. Non-Completion of Collection and Extension of Collection Hours: The contractor shall inform the City of the areas not completed, the reason for non-completion, and the expected time of completion.
17. Bond: Contractor shall post a performance and payment bond in the amount of \$5,000.
18. Insurance: For the duration of the contract contractor shall, carry insurance covering public liability, general liability, automobile liability, loading and unloading, completed operation liability and bodily injury liability of at least \$1,000,000 for the injury or death of any one person and for injuries or death for any one occurrence, or such other limits as may be required by law.  
  
For the duration of the contract contractor shall, carry Worker's Compensation insurance for all of its employees as required by law.
19. Hold Harmless: Contractor shall hold the City harmless, and to defend and indemnify the City, its agents, and employees for all claims arising out of the contract by a third party.
20. Financial Records: Contractor shall keep financial records and agree to comply with MSA 16b.06 Subd. 4.
21. Contractor shall correct any violation of the contract within 10 working days of receiving written notice from the City.
22. If, for any reason, the Contractor shall fail to fulfill in timely and proper manner the obligations under the contract, the City shall reserve the right to terminate the contract by specifying the date of termination in a written notice to the firm at least thirty (30) calendar days before the termination date. In this event, the firm shall be entitled to just and equitable compensation for any satisfactory work completed.

**CITY AGREES TO:**

23. Pay for all services and items provided by the firm under the proposal on a monthly basis or on such schedule as shall be mutually accepted by the City and the Contractor.
24. If, for any reason, the Contractor selected is not able to commence services under this agreement within 30 days after its award, the City reserves the right to award the agreement to another qualified firm.
25. Inform residents of the times of pick-up and eligible "recycling materials".
26. Pay to Contractor a rate for service at \$2.55 per month per CDU beginning the 1<sup>st</sup> of the month after the cart delivery. This rate shall be adjusted on the anniversary date of the contract by 3% or CPI for private transportation whichever is less.

The City agrees to pay Contractor an additional fee if diesel fuel increases to a dollar amount equal to or above \$4.00 per gallon, adjusted on a monthly basis. If diesel fuel is below \$4.00 per gallon, the fuel surcharge will be 0 percent. If diesel fuel is at or above \$4.00 per gallon the following percentages will apply to Waste Management's base rate (the base rate applies to the monthly invoiced amount for residential refuse, recycling, & yard waste and multi-family recycling).

<b>Diesel Fuel Price per Gallon</b>	<b>Fuel Surcharge</b>
<\$4.00	0 Percent
\$4.00 to \$4.24	2 Percent
\$4.25 to \$4.49	4 Percent
\$4.50 and up	5 Percent

The published index for determining monthly diesel fuel prices will be the Department of Energy's (DOE) "Weekly Retail On-Highway Diesel Prices" for the Midwest region. The price published for the first Monday of the month will be used as that month's diesel fuel price. The prices can be viewed at the DOE's website:  
<http://tonto.eia.doe.gov/oog/info/wohdp/diesel.asp>.

**GENERAL PROVISIONS:**

27. No official or employee of the City who exercises any responsibilities in the review, approval or carrying out of the contract shall participate in any decision that affects his or her direct or indirect personal or financial interest.
28. For the purposes of this agreement, the Contractor shall be deemed to be an independent contractor, and not an employee of the City. Any and all agents, servants, or employees of the firm or other persons, while engaged in the performance of any work or services required to be performed by the City under this agreement, shall not be considered employees of the City and any and all actions which arise as a consequence of any act or omission on the part of the firm, its agents, servants, employees or other persons shall in no way be the obligation or

responsibility of the City. The Contractor, its agents, servants, or employees shall be entitled to none of the rights, privileges, or benefits of organization employees except as otherwise may be stated herein.

29. This agreement is contingent on the City receiving funding from Washington County. In the event that funding is not received from Washington County, this agreement may will be terminated at option of the City upon 30 days written notice.
30. The agreement shall be for five (5) years ending April 30, 2013.

Any and all notices to City may be given to:

Village of Birchwood  
207 Birchwood Avenue  
Birchwood, MN 55110  
Phone: 651-426-3403  
Fax: 651-426-7747

And Contractor at:

Waste Management  
10050 Naples Street N.E.  
Blaine, MN 55449  
Phone: 952-890-1100  
Fax: 763-783-5477

IN WITNESS WHEREOF, the parties have subscribed their names as of the date first written.

WASTE MANAGEMENT

VILLAGE OF BIRCHWOOD

By: 

By:   
Katherine M. Weber  
City Administrator/Clerk

I:\Refuse and Recycling\Recycling\Contract Maht.doc

**CITY OF  
BIRCHWOOD VILLAGE**

**REQUEST FOR PROPOSALS**

**FOR**

**RECYCLING SERVICES**

**January 2013**

**Birchwood Village, MN 55110**

**[birchwoodvillage@comcast.net](mailto:birchwoodvillage@comcast.net)**

**REQUEST FOR PROPOSALS/RECYCLING**

**NOTICE OF REQUEST FOR PROPOSALS  
BY CITY OF BIRCHWOOD VILLAGE  
FOR RECYCLING COLLECTION**

The City of Birchwood Village is requesting proposals from experienced recycling haulers for the collection of recycling materials in the City of Birchwood Village.

There is no expressed or implied obligation for the City of Birchwood Village to reimburse responding companies for any expenses incurred in preparing proposals in response to this request.

Any inquiries concerning the request for proposals should be addressed to:  
Dale Powers, City Clerk, City of Birchwood Village, 207 Birchwood Avenue,  
Birchwood Village, MN 55110, Telephone – (651) 426-3403, Email:  
birchwoodvillage@comcast.net

***To be considered, three copies of the proposal must be received by  
noon, March 1, 2013. Mailing address:***

***City of Birchwood Village  
207 Birchwood Avenue  
Birchwood Village, MN 55110***

The City of Birchwood Village reserves the right to reject any or all proposals submitted.

The Birchwood Village City Council will evaluate proposals submitted.

During the evaluation process, the City of Birchwood Village reserves the right to request additional information or clarifications from proposers. At the discretion of the City of Birchwood Village, companies submitting proposals may be requested to make oral presentations as part of the evaluation process.

It is anticipated the selection of a hauler will be completed by March 15, 2013.

All persons submitting a proposal must use the proposal form supplied by the City and must return three (3) copies of the proposal.

This is a request for proposals, not a competitive bidding process.

## **REQUEST FOR PROPOSALS/RECYCLING**

### **PROPOSAL REQUIREMENTS**

**General Conditions** The City of Birchwood Village reserves the right to waive minor irregularities in the proposal documents, to negotiate with those submitting proposals as to any issues, and to reject any or all proposals. The Recycling material collection hauler selected by the City shall be required to comply with the requirements of the contract, request for proposal, and ordinance to fulfill the requirements thereof.

**Proposal Form** All proposals shall be made on forms provided by the City Clerk.

**Rejection of Proposals** Proposals may be rejected if they show any alterations of form, additions not called for, conditional proposals not requested, erasures, or irregularities of any kind.

**Qualifications of Applicants** No contract will be issued to any applicant who cannot give satisfactory assurances as to its ability to carry out the terms of the contract based on its financial condition and previous experience.

### **EVALUATION CRITERIA**

The City intends to award the recycling collection haulers contract to the hauler that the City believes to be the best for the City of Birchwood Village, when considering the entire proposal submitted by the applicant. Rates alone will not be the sole determining factor.

### **TERM OF CONTRACT**

The initial term of this contract shall be for a period of four years, commencing May 1, 2013 and ending April 30, 2018. There may be an indefinite extension that will be implemented if the hauler's performance is satisfactory and if a rate can be negotiated.

## **REQUEST FOR PROPOSALS/RECYCLING**

### **DEFINITIONS**

- A. CITY.** City of Birchwood Village.
- B. RESIDENTIAL HAULER.** Any person contracted by the City to collect recycling from residential or governmental property within the city.
- C. RECYCLING MATERIAL.** Includes but is not limited to paper, cardboard, glass, aluminum, metal cans, plastics (minimum #1 and #2 with necks; please specify if proposal includes other options)
- D. RESIDENTIAL STRUCTURE.** Any structure located in a residential zone within the City. Residences located in zones outside of a residential zone are non-conforming uses and shall be considered residential structures for purposes of this request for proposal.

### **RECYCLING MATERIAL COLLECTION FOR RESIDENTIAL STRUCTURES**

- A. Recycling material collection shall not include toxic and hazardous waste.
- B. The hauler shall provide service as necessary for the collection and disposal of Recycling material from all City owned or leased facilities, properties, parks, and street containers at no additional charge.

### **COLLECTION SERVICE PROVISIONS AND SCHEDULE**

- A. All collection service shall be conducted during daytime hours, weekdays only.  
  
Collections will be done in one day (preferably Monday or Thursday—please specify in proposal), selected by the hauler with the approval of the city. Any change in the schedule of collection shall be submitted in writing to the City Council for approval
- B. The hauler shall not make collections on Saturdays, Sundays or on legal holidays. The hauler shall inform the City ten (10) days in advance of an alternative collection day being scheduled due to a holiday. The hauler shall bear all costs involved in notifying the City of collection schedule changes.
- C. The City reserves the right to improve any street or alley that may prevent the hauler from traveling its customary routes for collection. The hauler shall contact the City Clerk prior to each construction season to determine areas of

## **REQUEST FOR PROPOSALS/RECYCLING**

conflict and possible alternate routes or solutions. No additional compensation will be made for alternate routes or solutions.

- D. The hauler may request a change in the route (day of collection) schedule by requesting such change in writing to the City. Any non-emergency route change shall be effective only upon authorization from the City Council, and at the hauler's expense, by a published notice in the city newsletter.
- E. No resident or group of residents will be allowed to use a dumpster for garbage collection.

### **PERFORMANCE STANDARDS AND OPERATION**

- A. The hauler shall, immediately clean up any Recycling material dumped or spilled in collection or transporting. Vehicles shall be kept clean and shall not be allowed to stand in any street, alley or other place longer than is reasonably necessary to collect Recycling material.
- B. All vehicles shall be painted and marked uniformly and shall have the hauler's name prominently displayed in letters of contrasting color on each side of the vehicle.
- C. The hauler shall keep all equipment used in a clean, operable and sanitary condition. All equipment shall meet all Federal, State, County and Municipal regulations concerning vehicles used on public roads. Each collection vehicle shall be equipped with:
  - All OSHA required warning devices
  - Fire extinguishers
- D. Hauler's employees shall handle all containers with reasonable care to avoid damage.
- E. The hauler shall establish and maintain an office with supervision, and a telephone number, for accepting complaints and calls. The address and telephone number of such office and any changes shall be given to the City in writing.
- F. Whenever the City notifies the hauler of a location that has not received scheduled service, the hauler is required to service such location no later than the following working day from the time of complaint. All complaints shall be answered promptly and courteously. A record of all complaints and actions taken thereon shall be kept by the hauler and provided to the City upon request.

## **REQUEST FOR PROPOSALS/RECYCLING**

- G. The hauler shall comply with Ordinances of the City and the laws and regulations the State of Minnesota and its agencies relating to the collection of Recycling material.
- H. The hauler shall provide and maintain all sanitary and safety accommodations for the use and protection of its employees as may be necessary to provide for their health and welfare and comply with federal, state and local codes and regulations.

### **MISCELLANEOUS PROVISIONS**

- I. The hauler shall maintain, at its cost and expense and file with the City, policies or certificates of insurance for general liability, automobile liability and workers compensation. General liability must have a minimum of at least \$500,000 per occurrence. Automobile liability must cover every vehicle used in the hauler's operation, with a minimum of \$500,000 combined single limit per occurrence. The hauler shall maintain statutory employer's liability insurance for Workers Compensation in such amounts as required by law. The hauler shall name the City as an additional insured on all such policies of insurance and shall provide the City with certificates of insurance for all such policies, which shall evidence continuous coverage. Any lapse of required insurance coverage shall be cause for the City to immediately terminate the contract. All policies evidencing insurance required by this paragraph shall insure the City and the hauler for any act or omission, including negligence, of the hauler or of the hauler's employees or agents in connection with the performance of collection services, including claims arising out of the use of or operation of any vehicles used by the hauler or the hauler's employees or agents in performing collection services. Such policies shall be filed with the City Clerk/Treasurer.
- J. The hauler agrees to indemnify and hold harmless the City, its agents, officers and employees from any and all claims, causes of action, liabilities, losses, damages, costs, expenses including reasonable attorney's fees, suits, demands and judgments of any nature, because of bodily injury to, or death of, any person or persons and/or because of damages to property of the hauler or others, including loss of use from any cause whatsoever, which may be asserted against the City on account of any act or omission, including negligence, of the hauler, or the hauler's employees or agents in connection with the hauler's performance. The hauler agrees to defend any action brought against the City on any such matters, and to pay and satisfy any judgment entered thereon together with all costs and expenses incurred in connection therewith.

## **REQUEST FOR PROPOSALS/RECYCLING**

K. A hauler's contract issued by the City may not be assigned or transferred in whole or in part by the hauler unless the City Council, in its sole discretion, gives its approval prior to any proposed assignment or transfer. Any attempt to assign or transfer the contract in whole or in part without prior approval of the City Council shall be grounds for termination of the contract.

L. Termination:

1. Either party for cause may terminate the contract at any time during the term herein described by giving the other party ninety (90) days written notice of its intent to terminate the contract.
2. Upon failure of the hauler to fulfill any of the provisions of the contract, the City Clerk shall be authorized to hire such personnel and equipment, or assign City employees and equipment, as may be necessary to do such work, and the expenses thereof may be deducted from the moneys due the hauler.

### **BILLING FOR RESIDENTIAL RECYCLING MATERIAL COLLECTION**

The City shall be billed bi-monthly for recycling contract. Payment will be made with 45 days of submittal.

### **EXTENSION OF CONTRACT**

The City of Birchwood Village will consider extending the contract if the hauler and the City can negotiate acceptable terms. Otherwise the City will seek Request for Proposals.



**REQUEST FOR PROPOSALS/RECYCLING**

General Liability:

- A. Each person injured: \$500,000
- B. Each accident: \$500,000
- C. Property damage: \$500,000

Automobile Liability:

- A. Combined single limit: \$500,000

**RATES:**

Please use these figures and related information as a basis for the proposed rate structure. Please attach various rate scenarios to this proposal.

1. The Hauler will provide containers for curb-side residential pick-up of approximately 350 residents within the Birchwood Village City limits.
2. The Hauler shall provide proposals that address rates for:  
  
64 gallon containers

**COLLECTION DATES:**

Presently, collection is every other Monday. (Garbage pickup is every Thursday). Collection shall be bi-weekly starting between May 9 and May 15, 2013. Collection on Thursday is preferable. Please provide collection day proposed-- first and second options.

**OTHER SERVICES:**

Please list any other service you would provide for a fee:

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

The undersigned hereby submits a Recycling material collection proposal to the City of Birchwood Village. The undersigned agrees to abide by all Federal and State laws, and City ordinances now in effect and as they may be amended, regarding the collection and disposal of Recycling material. It is understood that

**REQUEST FOR PROPOSALS/RECYCLING**

violation of these laws and ordinances are grounds for revocation of the Recycling material collection contract.

The undersigned warrants that all information provided in this proposal is correct and that the undersigned has the authority to sign the proposal.

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

\_\_\_\_\_  
Signature

By its: \_\_\_\_\_  
(title)

Firm: \_\_\_\_\_

<i>FOR OFFICE USE ONLY</i>	
APPLICATION RECEIVED ____/____/____	
REQUIREMENTS MET	<input type="checkbox"/> YES <input type="checkbox"/> NO
DATE COUNCIL APPROVED ____/____/____	DENIED ____/____/____
DATE CITY CLERK/TREASURER ISSUED CONTRACT ____/____/____	

STATE OF MINNESOTA  
COUNTY OF WASHINGTON  
CITY OF BIRCHWOOD VILLAGE

ORDINANCE 2012-13

**AN ORDINANCE ADOPTING A NEW CHAPTER 703 (SPECIAL ELECTION)  
PROVIDING FOR A SPECIAL ELECTION TO FILL A VACANCY ON THE CITY  
COUNCIL AT TIMES OTHER THAN AT THE REGULAR CITY GENERAL  
ELECTION**

The City Council of the City of Birchwood Village hereby ordains that Chapter 703 (COUNCIL VACANCY - SPECIAL ELECTION) of the Municipal Code of the City of Birchwood Village is hereby adopted to read as follows:

**703 COUNCIL VACANCY - SPECIAL ELECTION**

703.010. VACANCY ON CITY COUNCIL. A vacancy shall occur on the Birchwood City Council whenever the mayor or another city councilperson resigns from the office to which the person was appointed or elected. A vacancy may also occur for any of the other reasons specified in Minnesota Statutes section 351.02.

703.020. APPOINTMENT TO FILL VACANCY. Whenever a vacancy shall occur on the Birchwood City Council, the existing City Council shall appoint a person to fill the vacancy on a temporary basis until a replacement can be elected in a special or regular election. The existing City Council shall not appoint a replacement without first giving public notice of the vacancy in the same manner as notice of regular council meetings and allowing interested persons at least ten (10) days to submit an application for appointment. A replacement shall be appointed within sixty (60) days of the date of the vacancy but not prior to the date the vacancy exists unless no person has expressed a willingness to serve on a temporary basis. The appointed person shall serve until the person elected to fill the unexpired portion of the term or elected to a new term, whichever is applicable, is sworn into office.

703.030. SPECIAL ELECTION. Whenever a vacancy on the City Council occurs more than sixteen months before a regular election is scheduled, the Council shall hold a special election to elect a person to fill the remainder of the term. For prospective vacancies, preparations for the special election may begin immediately after the written resignation is received by the Council.

703.040. SPECIAL ELECTION PROCEDURES. If a special election is required under section 703.30 to fill a vacancy on the City Council, the Council shall follow the procedures below for holding the special election.

703.041. The City Council shall pass a resolution ordering a special election and providing all means for holding it. The procedure at such special election shall conform as nearly as possible to that prescribed for regular municipal elections.

703.042. The City shall give notice in whatever manner deemed appropriate by the Council that a special election will be held and shall allow interested persons at least ten (10) days and not more than twenty (20) days to file for the vacant office. Any person who files for the office shall have his or her name placed on the ballot at the special election without party designation. Each person filing for election to the vacant office shall pay the requisite filing fee as though the special election were a regular election.

703.043. The special election shall be held no more than 120 days after the vacancy occurs.

703.044. The City shall publish notice in the official newspaper at least ten days before the date of the special election of the time and place and purpose of the special election.

# CITY OF BIRCHWOOD VILLAGE 2012 FEE SCHEDULE

## GENERAL FEES

Compact Disk.....	\$1.00 per disk
Copies (Black and White).....	\$0.10 per page 8 ½ x 11 and 8 ½ x 14 \$0.20 per page 11 x 17
Copies (Color).....	\$0.50 per page
Dog License.....	\$10.00 bi-annual; \$3.00 late fee if paid after February 15
-Replacement Dog Tag.....	\$1.00
Facsimile.....	\$1.00 first page; \$0.50 each additional page
Hall Rental.....	\$25.00 plus \$100.00 refundable deposit
Postage & Envelopes for Mailings & Public Hearing Notices...	\$0.11 plus postage
Returned Check.....	\$30.00

## DOCK ASSOCIATION FEES

Boat Lift Storage.....	\$100.00 per lift
Dock Association Boat Slip Permit.....	\$200.00 per slip
Dock Association Dock Permit.....	\$100.00 per dock
Dock Application Review Fee.....	\$150.00

## PLANNING AND ZONING FEES

Comprehensive Plan Amendment Application Fee.....	\$500.00
Conditional Use Permit Application Fee.....	\$400.00
Home Occupation Permit Application Fee.....	\$100.00
Interim Use Permit Application Fee.....	\$400.00
Planned Unit Development Application Fee.....	\$650.00
Rezoning Application Fee.....	\$650.00
Subdivision: Minor Subdivision/Lot Split Application Fee.....	\$225.00
Subdivision Preliminary Plat Application Fee.....	\$450.00
Street Vacation.....	\$150.00
Variance Application Fee.....	\$206.00
Zoning Permits: Shed, Driveway, or Fence.....	\$ 30.00

## BUILDING PERMIT FEES

TOTAL VALUATION	FEE
\$1.00 to \$500.00	\$29.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00 or fraction thereof, to and including \$2,000.00
\$2001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00

\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00.
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000.00 or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.15 for each additional \$1,000.00 or fraction thereof.

Other Inspections and Fees:

Inspections outside of normal business hours . . . (Minimum charge - two hours)	\$47.00 per hour*
Re-inspection fees . . . . .	\$47.00 per hour*
Inspection for which no fee is specifically indicated (Minimum charge - one-half hour) . . .	\$47.00 per hour*
Plan Review.....	50% of the building permit fee
Additional plan review required by changes, additions or revisions to Plans (minimum charge - one-half hour). . . . .	\$47.00 per hour*
Outside consultants for plan checking and inspections or both . . . . .	Actual costs**

\*Or the total hourly cost to the city, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

\*\*Actual cost includes administrative and overhead costs.

## DEMOLITION AND WRECKING OF BUILDINGS FEES

\$25.00 for the first 1,000 square feet, plus \$10.00 for each additional 1,000 square feet or fraction thereof. The minimum permit fee is \$25.00.

## GRADING FEES

Plan Review Fees:

<u>100 cubic yards or less</u>	<u>No fee</u>
<u>101 to 1,000 cubic yards</u>	<u>\$40</u>
<u>1,001 to 10,000 cubic yards</u>	<u>\$50</u>
<u>10,001 to 100,000 cubic yards</u>	<u>\$50 for first 10,000 cubic yards</u> <u>\$25 for each additional 10,000 or fraction thereof.</u>
<u>101,000 to 200,000 cubic yards</u>	<u>\$300 for first 100,000 cubic yards</u> <u>\$15 for each additional 10,000 or fraction thereof.</u>
<u>200,001 cubic yards or more</u>	<u>\$400 for first 200,000 cubic yards</u> <u>\$10 for each additional 10,000 or fraction thereof.</u>

Permit Fees:

<u>100 cubic yards or less</u>	<u>\$25</u>
<u>101 to 1,000 cubic yards</u>	<u>\$40 for first 100 cubic yards</u> <u>\$25 for each additional 100 or fraction thereof.</u>
<u>1,001 to 10,000 cubic yards</u>	<u>\$200 for first 1,000 cubic yards</u>

	<u>\$20 for each additional 1,000 or fraction thereof.</u>
<u>10,001 to 100,000 cubic yards</u>	<u>\$350 for first 10,000 cubic yards</u> <u>\$75 for each additional 10,000 or fraction thereof.</u>
<u>101,000 cubic yards or more</u>	<u>\$1,000 for first 100,000 cubic yards</u> <u>\$40 for each additional 10,000 or fraction thereof.</u>

### UTILITY CONNECTION FEES

Buildings or dwellings existing or constructed in the City of Birchwood Village must connect to the municipal water and sanitary sewer system so long as it is reasonably available. Prior to connecting to public utilities, the owner or representative must pay the following fees:

(a) Metropolitan Council Sewer Access Charge SAC fee as established by the Metropolitan Council per state statute MN 473.517.

(b.) City Sewer Connection (SAC) Fees.

- |     |                         |                        |
|-----|-------------------------|------------------------|
| (1) | Single Family Dwellings | \$500.00 per home      |
| (2) | Two Family Dwellings    | \$1000.00 per dwelling |

(c ) Water Connection (WAC) Fees

- |     |                         |                         |
|-----|-------------------------|-------------------------|
| (1) | Single Family Dwellings | \$500.00 per home       |
| (2) | Two Family Dwellings    | \$1,000.00 per dwelling |

### CERTIFICATE OF OCCUPANCY

If a permit shall require a certificate of occupancy, a fee of \$10.00 shall be paid at the time of issuance.

### PLUMBING PERMIT FEES

Plumbing Fixture Unit Fees:

Residential fee (minimum permit fee)	\$25.00
Non-Residential fee (minimum permit fee)	\$35.00
For each fixture or fixture opening	\$10.00
For each gas piping outlet, stove, dryer etc.	\$ 5.00

For each water heater and/or vent	\$30.00
For each lawn sprinkler system backflow protection device	\$20.00
For each atmospheric-type vacuum breaker	\$ 1.00
For each backflow protection device (other than items 6 & 7)	\$20.00
Clothes washers: First five or less	\$20.00
For each additional unit	\$ 7.00
For each flammable waste trap or catch basin	\$ 5.00
For each sewage ejector	\$15.00
For each water softener	\$20.00
For each ground run for existing buildings	\$15.00
For each water distribution piping extension or alteration	\$20.00
For each rainwater leader	\$10.00
Main gas line	\$10.00

Sewer and Water: Unit Fee Schedule:

Street excavation/refundable deposit	\$25.00/\$1,500
For each water tap	\$20.00
For each sewer tap	\$20.00
For each residential water line installation or repair	\$30.00
For each residential sewer line installation or repair	\$30.00
For each non-residential water line installation or repair	\$45.00
For each non-residential sewer line installation or repair	\$45.00
For each hydrostatic and conductivity test	\$45.00
Storm Sewer	\$30.00

Value-Based Repairs/Alterations: Unit Fee Schedule:

Repair or alteration of any plumbing system based on value:	
-First \$100.00 (of value)	\$15.00
-For each additional \$100.00 (of value) or fraction thereof	\$ 2.00

Backflow Protection Test Filing Fee: For each RPZ or double check/double gate valve \$15.00

### HEATING PERMIT FEES

For the installation of any new or replacement central heating and/or air conditioning system, or in floor heating with heat source, the permit fee is 1% of estimated cost or the minimum, whichever is greater.

Minimum Fee - Heating system \$60.00

Minimum Fee - Air Conditioning \$30.00

Minimum Fee - Heating and Air Conditioning \$90.00

(a) For alteration or repair to any central heating and/or air conditioning system, the permit fee is 1% of the estimated cost or \$20.00, whichever is greater.

(b) For each appliance or piece of equipment regulated by the code, but not classed in other appliance categories, or for which no other fee is listed in the code, the fee is 1% of the estimated cost or \$25.00, whichever is greater.

(c) For the extension or alteration of ductwork in one and two family dwellings whereby the work is supplemental to a current building permit, the permit fee is 1% of the estimated value or \$20.00, whichever is greater.

(d) For the installation, alteration, or repair of each process piping system, the fee is 1% of the estimated value or \$30.00, whichever is greater.

(e) For the installation of a fireplace, the fee is 1% of the estimated cost or \$25.00, whichever is greater.

(f) For a review of plans and other data the fee is equal to 25% of the permit fee or \$ ##.00, whichever is greater.

### ELECTRICAL FEES

Electrical fees shall be applied as established in Minnesota Statutes Section 326B.37.

### FIRE SPRINKLER SYSTEM FEES

(a) For each fire suppression cooking hood extinguisher system \$30.00

(b) For each bath or tank system \$30.00

(c) For each automatic fire suppression system  
1 to 10 heads, including risers \$30.00  
Each additional 10 heads or fraction thereof \$ 3.00

(d) For each on site fire hydrant \$35.00

- (e) Building standpipe systems per building \$50.00
- (f) Fire Alarm \$30.00
- (g) Fire Permit Plan Review Fee 50% of the permit fee

**STATE SURCHARGE FEES**

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mil (0.0005) of the fee or \$5.00, whichever amount is greater. For all other permits the surcharge is as follows:

VALUATION OF STRUCTURE, ADDITION OR ALTERATION	SURCHARGE COMPUTATION
\$1,000,000 or less	.0005 x valuation
\$1,000,000 to \$2,000,000	\$500 + .0004 x (Value - \$1,000,000)
\$2,000,000 to \$3,000,000	\$900 + .0003 x (Value - \$2,000,000)
\$3,000,000 to \$4,000,000	\$1200 + .0002 x (Value - \$ 3,000,000)
\$4,000,000 to \$5,000,000	\$1400 + .0001 x (Value - \$ 4,000,000)
Greater than \$5,000,000	\$1500 + .0005 x (Value - \$ 5,000,000)

**BUILDING MOVING FEES**

The fee to move a building from its present location in Birchwood to any other site, whether or not the new site is within Birchwood, shall be \$100.00.

**WATER AND SEWER RELATED FEES**

- Water Use...\$13.25 for the first 800 cubic feet; \$1.65 per additional 100 cubic feet; plus \$1.59 state surcharge
- Sewer Fee (metered, quarterly)...\$28.00 for the first 800 cubic feet; \$3.50 per additional 100 cubic feet
- Sewer Fee (unmetered, quarterly).....\$40.00
- Outside sewer/water installation or repair permit.....\$60.50
- Turning water service on or off at street.....\$150.00
- Utility Bill Late Fee.....5% of the unpaid balance

### **ADDITIONAL FEES**

**Late Fee:** In the event a person shall engage in conduct for which a permit or license is required without first paying the appropriate fee and obtaining the permit or license, the fee established shall be doubled.

**Additional Fee:** An additional fee, not to exceed actual expenses or the original amount of the fee (whichever is less), shall be paid if the City Council determines that the applicant has changed the project after submission of the initial application, or if it is necessary to conduct an excessive number of reinspections of the project in order to ensure compliance with the City Code or the terms of the permit or license.

**Fines:** Payment of any late fee or additional fees shall be in addition to any fines that may be imposed for violation of the City Code.

### **REFUNDS**

The City will refund  $\frac{1}{2}$  of the fee for the permit or license if the applicant requests a refund within 15 days after the fee is paid and no action has been taken by the City on the request for the permit or license.

**City of Birchwood Village, MN  
Sanitary Sewer Collection System  
Maintenance Policy**

**Summary of Policy**

This Maintenance Policy has been developed by the City of Birchwood Village to keep the sanitary sewer collection system operating efficiently. The second goal of the policy is to minimize the number of blockages and back-ups into residential properties. Procedures for maintaining the sanitary collection system will be based upon a priority-based system. The City has entered into an Agreement with White Bear Lakes Public Works to provide maintenance and inspection of the cities system.

**Rating of Sanitary Sewer Mains**

The maintenance program will be flexible and adapt as sections of sanitary sewer are identified that require additional attention. Sections of sanitary sewer will be moved into a higher or lower ranking depending on the number of blockages experienced and if improvements are made. A sanitary sewer map is attached that will be updated on a yearly basis to reflect changes in the rating of the sanitary sewer mains.

The sanitary sewer system was installed in Birchwood Village in the 1960's. However, the City has determined that capital improvement projects should be undertaken when infiltration, blockages, or cracks dictate the replacement of a main. Any rehabilitated line will be placed within the routine category for a period of five years unless documented blockages or back-ups are identified.

*Routine:* These sewers are cleaned every two years and have been rehabilitated within the past five years.

*Low:* These sewers are cleaned on an annual basis and inspected on an annual basis.

*Medium:* These sewers are cleaned on an annual basis and inspected on a semi-annual basis.

*High:* These sewers are cleaned on an annual basis and inspected quarterly.

**Inspection**

Inspection of the lines is completed by inserting an 8-inch proof basket into the line. If difficulty is encountered pulling the basket through the line then a root saw will be used to clean the line in order to provide an 8-inch opening the length of the main.

**Record Keeping**

All physical maps and field notes will be kept and filed for a period of five (5) years.

## **Lift Stations**

There are three lift stations in the City of Birchwood Village:

- Dellwood Lift Station – Rehabilitated in 2004
- Wildwood Lift Station – Rehabilitated in 2001
- Birch Street – Rehabilitated in 1997

The lift stations shall be inspected three times a week by White Bear Public Works Staff. Pump run hours are noted.

## **Emergency Response System**

The City of Birchwood Village has an agreement with White Bear Lake to provide 24 hour response to emergency situations. If a resident experiences a back up the voice mail message for City Hall directs them to call White Bear Lake. The City of Birchwood Village will provide White Bear Lake Public Works with forms to complete for each response to an emergency situation. These records will be filed for a period of five (5) years. The system will be reviewed to determine if any areas are experiencing an unusual number of back-ups.

## **Documentation**

The City of Birchwood Village will provide White Bear Public Works with forms that will be completed when maintenance or inspection activities occur. A hard copy will be kept for a period of five (5) years.